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4511.

THE HISTORY
OF THE
TOWN AND PORT OF DOVER,
AND OF
DOVER CASTLE;
WITH A
SHORT ACCOUNT OF THE CINQUE PORTS.

BY THE REVEREND JOHN LYON,

MINISTER OF SAINT MARY'S, DOVER.

IN TWO VOLUMES.

VOL. I.



DOVER:

PRINTED, FOR THE AUTHOR, BY LEDGER AND SHAW,
AND SOLD BY THEM, AND ALL THE BOOKSELLERS IN THE COUNTY OF KENT;
AND BY
LONGMAN, HURST, REES, ORME, AND BROWNE,
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1813.

TO
JAMES GUNMAN, ESQUIRE,

OF
THE TOWN AND PORT OF
DOVER,
THIS VOLUME IS INSCRIBED,

WITH THE GREATEST SINCERITY AND RESPECT,

BY
HIS MOST OBEDIENT AND FAITHFUL,
HUMBLE SERVANT,

THE AUTHOR.

Dover, 14th May, 1813.

ADVERTISEMENT.

If the reader expects to find, in the following pages, a list of the names of those, who have directed the public affairs of a frontier town on the coast of Kent for several ages ; or if he searches for a collection of epitaphs, inscribed on their tombs, to learn something of their public or private virtues, he will be equally disappointed ; as it never was intended to swell this volume with them.

The insertions of such lists, may gratify the vanity of a few individuals, whose ancestors have carried the staff of authority ; but they can never be interesting, or edifying, to an indifferent person. Many may think, that the contents of each of the chapters in this book, are equally unentertaining and useless. Whatever the opinions of such persons may be, there have been many inquisitive travellers, who have visited Dover, whose eyes have been attracted by several noble and extensive ruins, and they have wished to know something more of their origin, than the scanty and doubtful information they could glean on the spot. Those who are conversant in history, have read of privileges having been granted to the Barons of the Cinque Ports, by our Saxon and

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Norman Kings ; but in searching after the nature and the extent of them, their enquiries have generally been fruitless. If it should appear a singular, it is a positive fact, that, although the present existing charter granted to the incorporated ports, confirms the privileges given to them, in their charters of a very remote date, yet they are but little known to the majority of the inhabitants ; and if they retain any traditional account of ancient customs enjoyed by their ancestors, they are totally ignorant when, and how they have been deprived of them.

If the general charter to the Cinque Ports, published by Jeake, (and which is now growing scarce) be excepted, there are but few remaining records of antiquity, to be found in the archives of the different towns, to elucidate their history ; and even the few which remain, have been carefully concealed from the public eye, and every avenue which leads to them barred, until forced by the strong arm of the law.

As but little information can be gleaned from those, who never trouble themselves with transactions which happened before their own time ; and as the records of several of their ports and towns, which disappeared during the last century, did not reach backward further than the reign of Henry the Sixth, it was judged necessary to search, and glean from, the annals of past times, and from our different repositories of manuscripts, what could be collected of the services, customs, and privileges, which were once so much valued by the Barons of the Cinque Ports.

In the early period of our history, they were summoned to consult with the great Barons and the King, in the grand council of the nation ; and they took an active part by sea, in the defence of the kingdom ; yet there is but little information to be gathered of the Cinque Ports, or their two ancient towns, from the histories and the chronicles of monkish writers. A very long list of our most ancient histories and chronicles, and several manuscripts in different repositories, have been examined, with a view of collecting materials for this work, which it is thought unnecessary to mention in detail.

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A manuscript, in the possession of a gentleman, whose ancestors filled an high office in Dover Castle, contains, among much interesting information, copies of several of the Customals of the Cinque Ports, and their two ancient towns. These Customals were authentic books, or rolls, of laws and customs, which had been used in the towns, within the jurisdiction of the Ports, from a very remote antiquity ; and copies of them were delivered into the castle, and deposited there in the archives, in the year 1357, by the order of Roger Mortimer, the Constable of the Castle, and Warden of the Cinque Ports.

These rolls were in being in the reign of William the Third ; and they were transcribed by the order of a Lieutenant Governor, and the copy is still preserved, but the originals have long since perished. Copies of several of them will be published in the second volume. These Customals, and some of our earliest writers, will be occasionally referred to in the following pages ; but as frequent repetitions would considerably increase the expence of printing, without adding any value to the work, in the opinion of the majority of readers, I have thought it prudent, not to load the page with many references.

In the manuscripts which have been examined, there have been discovered the connecting links in that system, which was adopted as early as the reign of Henry the Seventh, to narrow the privileges of the freemen ; and, in the reign of Elizabeth, it was so firmly established, that if it was afterwards suspended for a time, I believe it was never lost sight of in the port of Dover.

In tracing the progress of a systematic plan of encroachment on the privileges of the freemen ; and by comparing the history of the past with the present government of the Cinque Ports, and their two ancient towns, it will be seen, how dangerous it is, to suffer any body of men to make innovations in the ancient laws, usages, and customs, with a view of extending their own power and interest.

If there should be any information in the following pages, which point out the privileges once enjoyed by the Barons of the Cinque Ports,

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and their two ancient towns ; or if it should be discovered, that their ancient practice in their courts of law, will not countenance a cruel custom of punishing transgressors with a long confinement before trial, as was the case not fifty years since ; or if the inhabitants of the western ports, and their members, should see, that they are deprived of their privileges, and even of giving a vote for representative in parliament ; then this History of Dover may be of some little use ; for the grants of our Kings ought not to be trampled under foot, if charters are uncancelled, and statutes unrepealed.

CORRECTIONS.

Page vi, line 19, for *tullage*, read *tallage*.

7, line 8 and 9 from the bottom, for *Valencians*, read *Vetascians*.

7, the bottom line, for *Turgians*, read *Tungrians*.

42, line 6, for *Edward the Third*, read *Edward the Second*.

42, line 12; for *Edward the Second*, read *Edward the Third*.

47, line 5 from the bottom, for *it*, read *in*.

49, line 13, for *converted*, with several tenements, read *converted into* several tenements.

132, line 10 from the bottom, for *will*, read *with*.

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INTRODUCTION.

There are several towns situated on the coasts of Kent and Sussex, which, from the æra of the Norman Conquest, have been distinguished by the name of the Cinque Ports ; and many of the towns and villages, from the north side of the Isle of Thanet (near the shore) to Hastings, have been considered as their members, as far back as Henry the First, as it appears by the Red Book in the Exchequer, written about that time.

As the services the inhabitants of the Cinque Ports had contracted to perform were considered as honourable, it is probable, that their neighbours were desirous of partaking of their privileges, by paying a proportionable part of the expence to the head port. It was the opinion of Lord Coke, that originally there were but three of the Roman Ports ; but his Lordship has not left us any proof to support his assertion ; and if he had attended to the Roman History of Britain, he would have found, that they had nine ports here prior to their leaving this island. He might have been induced to believe, that because the services and liberties of the ports of Hithe, Romney, and Hastings, are not particularly specified in the Doomsday Book,

as they are for Dover, nor acknowledged as they are for Sandwich, that they were not all united with them under the Saxon Kings.

It appears from unquestionable authority, that they were all five included in the general charter granted to them by Edward the First, after the Conquest; for he acknowledges, that he had seen the charter of Edward the Confessor¹ to the Cinque Ports; of William the First, and Second; of Henry the First, and John; and also of his grandfather King Henry; all which charters, the Barons of the Cinque Ports then had in their possession. The title of Baron was confirmed to them by different Kings, for the services of their ships, and for their commercial intercourse with foreign states.

As the charter granted by King John was chiefly declaratory of ancient rights, he only confirmed, in general terms, all their free liberties and customs,² which they had enjoyed under his ancestors; and as their charters were then in being, they were sufficient to prove their privileges.

Henry the Third confirmed all their charters, upon condition, that they would provide him the same number of ships they had done for his ancestors. The Doomsday Book of the Cinque Ports contained an exemplification of all the liberties, customs, laws, and services they owed to the Kings; but time and neglect have destroyed this ancient record. Only a small fragment has reached us, and that, by the inattention of the transcriber, contains a very material error. The number of ships and men the Cinque Ports are to find, are there stated to be as follows.—

Hastings, 21 ships, 441 men, 21 boys.—Winchelsea and Rye, 15 ships, 315 men, 15 boys.—Romney, 5 ships, 105 men, 5 boys.—Hithe, 5 ships, 105 men, 5 boys.—Dover, 21 ships, 441 men, 21 boys.—Sandwich, 5 ships, 105 men, 5 boys.—Total, 72 ships, 1512 men, and 72 boys.

¹ Jeake, p. 23, 51, 52.

² Blackstone's Com. p. 27, 228.

In this account, there are fifteen ships, with their complement of men and boys, more than the Barons of the Cinque Ports stipulated to provide in their contract. This error arises from the transcriber's having separated the port of Hastings from its members, and added the ships found by Winchelsea and Rye to the twenty-one, their complete number.

A list of the Cinque Ports, their two ancient towns and their members, with the number of ships they found for the King's service.

Head Ports and their members.	Ships.	Counties.
Hastings, a head port,	3	Sussex.
Rye, an ancient town,	5	ditto.
Winchelsea, an ancient town,	10	ditto.
Seaford and Pevensey,	1	ditto.
Bulverheath and Petit Hiam,	1	ditto.
Hidney, Grange, and Beakesbourn,	1	ditto.
	— 21	
Romney, a head port, Lidd, Promehill, Old Romney, Dangemarsh, Owardstone,	5	Kent.
Hithe, a head port, West Hithe,	5	ditto.
Dover, a head port, Margate, Saint Peter, Birchiaton, Thanet, Ringwould, Folkstone, Faversham,	21	ditto.
Sandwich, a head port, Deal, Fordwich, Ramsgate, Sarr, Walmer, Brightlingsea,	5	ditto.
Total number of ships,	57	ditto.

The Barons of the Cinque Ports were discharged from military duties in the field, for fitting out their fleet, at the King's command; and this species of feudal service, Stephen de Pencester found recorded in the Exchequer, in the reign of Henry the Third; and the Barons of the Cinque Ports acknowledged the same due to their

King, upon their receiving a summons of forty days notice, in the following form.

"John de Beauchamp, Constable of Dover Castle, and Warden of the Cinque Ports, greeting."

"Whereas the Barons of the Cinque Ports owe Us the following services, when required, viz. That the said Ports and their members shall, upon forty days notice, fit out, and supply the King with fifty-seven ships, each having a master and twenty men, well armed and arranged, at their own proper cost, for fifteen days; and at the expiration of which time, the said ships and men to be at our own proper charge and pay, so long as we shall have need of them, viz. the master of each ship to have six pence, the constable six pence, and each of the men threepence a day, as by the tenor of the charters and liberties granted by our predecessors, and which we have confirmed. We having ordered a great naval armament, to assemble for our voyage to Ireland, whereof we summon the said Barons to perform the said service, by sending the said ships and mariners, well arrayed, to attend at Bristol, A. D. 1393."

This order varied, according to the number of ships required for service. If the whole complement of fifty-seven ships were thought insufficient, more were demanded; and sometimes it was required, that all their ships should be detained above a certain tonnage. An officer was appointed to inspect the ships fitted out by the Cinque Ports, to see that they had their number of men, and quantity of stores, in proportion to their burden. There is a curious paper remaining on record, of the age of Edward the Second, which will shew us how the service was performed in that æra.

Sir John Deverage was appointed to survey a fleet, ordered to assemble to the westward, to see if they were provided with anchors, cables, cordage, and all other necessaries proper for the expedition, and that every ship was sufficiently manned, in proportion to her

¹ Clause, 18 Rich. 2, m. 34.—Rym. Fœd. p. 784.

tonnage ; a ship of 240 tons, to have 60 men ; 200 tons, 50 men ; from 170 to 160 tons, 40 men ; 140 tons, 35 men ; 120 tons, 28 men ; 100 tons, 26 men ; and 60 tons, 21 men. Every ship above 60 tons, had a master, and two constables ; and under 60 tons, a master, and one constable.

From this account we learn, that the ships fitted out by the Cinque Ports, were above 60 tons burden ; and when they were intended for fighting, a certain number of soldiers were provided by the King for each ship ; and their arms consisted of bows and arrows, and cross-bows, darts, spears, slings, and grappling-irons, to detain the enemy, if they wished to board them.

The very nature of this service, required the Barons of the Cinque Ports to have frequent meetings, to raise supplies ; and as they had many privileges granted them, which, in a course of time, interfered with the grants to the Lords of other franchises, they had often litigation to defend their rights ; and it was found highly necessary to form an assembly, composed of the leading members in each port, and its members, to raise the money wanted for the year, and to regulate the various affairs in which they were jointly concerned. Several of their privileges will be noticed in the Introduction, pointing out the necessity of their holding a court, which they named a Brotherhood and Guestling.

The Court of Brotherhood and Guestling.

This general assemblage of the delegates of the Cinque Ports, was first at Shipway ; but after the decline of that place, it was removed to Romney, as the central port ; and it has sometimes been held at other places, within the jurisdiction of the Five Ports. It was formed upon a similar plan with the meetings of a lath, which, in the days of our Saxon ancestors, consisted of the principal men in each hundred, to deliberate on any such business as concerned the public safety.

The names of these assemblies varied in different counties, and they were called Trithing and Wapentake meetings; and when they related to both military and civil concerns, they were courts of council and of law. Though these courts were some of the first which were neglected in divers places, they were continued in the Cinque Ports, until time had entirely changed the aspect of their affairs. Whether the members of the Court of Brotherhood appointed the officers of militia, and the masters of their ships; or whether they performed any ceremony, in touching the sword or the spear of their leaders, as an acknowledgment of their approbation of this compact? are questions which cannot now be answered, by reference to any record of the court.

The Barons of the Cinque Ports, from the time of their enfranchisement, were obliged to have frequent meetings to raise supplies, for fitting out their fleet, for supporting their privileges, and for appointing their bailiffs to Yarmouth, and the hearing of their report at their return; and variety of other business which came before them. According to an indenture, bearing date in the fifth year of the reign of King Edward, the son of King Henry, it was settled, that all tullage, assessments and payments, and divers other charges and costs, should be levied on the Barons of the Five Ports, in such a proportion, that every one might bear his charge equally; and this was to be the standing rule. If any of the Barons of the Cinque Ports were impleaded of any point touching their joint charter, or their common usages or franchises, a Brotherhood was directly assigned at the request of the town, members, commonalty, or individual aggrieved. If any of the ports neglected to appear to the summons, to pay their part of the expences incurred, they forfeited a penalty of twenty pounds, to

¹ Essay on the British Constitution.—Bracton, lib. 3.—Leges Edwi. c. 33.—Henry's History of England, vol. 2, p. 243.—Jeake, p. 90, &c.

be recovered as a debt at the suit of either of the members of the town that complained, for the use of the ports.

This court sometimes interfered in correcting the defects of justice, and the irregularities of the officers of justice; but it seems as if they did not enforce the payment of fines, as there are instances of their ordering them to be recovered in the courts within their jurisdiction. The usual times for holding this court, were the Tuesday after the close of Easter, and on the festival of St. Margaret; but a majority of the members could summon a special court at any time, if business required it.

This assembly generally consisted of seven persons from each of the head ports, and their two ancient towns. They were the mayors, and their deputies, the last bailiff sent to Yarmouth, and the next in succession, with the town clerks and chamberlains, and one commoner; but by a decree of this court, the number was afterwards reduced to five, viz. the mayors or bailiffs, two jurats, and two commoners. The chief magistrates succeeded to the chair by rotation, and he who presided had the title of speaker. He was obliged to give forty days notice of their intention of holding a court, and the summonses were issued in the name of the speaker, and of the magistrates of the town in which he lived.

The Letter of Summons.

*" Right worshipful Sirs, loving Brethren, Combarons and Friends,
our right hearty affections and salutations to you presented.*

" Whereas by the septenary revolution, the Speakership of the Ports is now devolved upon us, we have thought meet to issue forth these our timely letters, whereby we pray, and brotherly require your advice and subscription, whether, as our affairs now stand, a Brotherhood or Guestling is either of them necessary to be arreaved this year. We, for our parts, considering the state of our affairs, are of opinion, and think fit that a Brotherhood should be summoned, to meet at the port of Romney, in the county of Kent, on Tuesday

after the festival of Saint Margaret next ensuing, at the accustomed hour; nevertheless, we submit these premises to your grave wisdom and consideration."

"Your loving Brother, Combaron, and Friend."

If the majority of the mayors and magistrates were of opinion a court ought to be summoned, they indorsed their names on the letter, and forty days before they intended to meet, they issued their precept in the following form.

"Right worshipful Sirs,

"It is concluded by the greatest part of the Brethren of the Cinque Ports, and their ancient towns, that a Brotherhood and Guestling ought to be arreased this year; we are therefore to pray and brotherly beseech you, to be at the place appointed at the hour accustomed, that is, by eight of the clock in the morning, with the full number of persons duly returned and commissioned, according to ancient custom and usage, time out of mind used and approved."

The persons commissioned to attend at this court, might be considered as the representatives of the Barons of each port; and they were all sworn to maintain their rights confirmed by charter, as well as their liberties and free customs; and it will be seen in the following pages what regard was paid to the oath.

The Commission.

"To all Christian people to whom these presents shall come, and especially to the Right Worshipful our loving Brethren, Combarons, and Friends, the Mayors, Jurats, and Combarons of the Cinque Ports, and two ancient Towns, to be assembled at a general Brotherhood, to be holden at the port and town of Romney, one of the said Cinque Ports, upon Tuesday, the twenty-sixth day of July. We, the mayor, jurats, and commonalty, of the ancient port of Hithe, in Kent, send greeting. Know ye, that we have received your letter of summons for a Brotherhall, sent from the mayor and jurats, of the town and port of Dover, and at a common assembly of us, the mayor, jurats, and commonalty

aforesaid, holden the seventeenth day of June last past, have elected, chosen, constituted, assigned, and appointed our well-beloved C. D. esq. mayor; E. F. the bailiff elect for Great Yarmouth, for the year ensuing; and G. H. I. K. our jurats, common clerk, chamberlain, and our number of commoners, freemen of our town, persons who have each of them taken a corporal oath for the maintenance of the charters, liberties, and customs of the said ports, ancient towns, and their members, to be and appear for us, and in our name, place, and stead, at the said Brotherhall, at the said town and port of New Romney, at the day aforesaid; as well to hear the relation of the bailiff of the Cinque Ports for the town of Great Yarmouth, for the last year, and also to agree and consent to the admittance of the new bailiff for the Cinque Ports to the said town of Great Yarmouth, this year ensuing; and all things incident to the said relation and admittance of the said bailiff. And we do, by these presents, give and grant unto the said persons, and every of them by these presents, jointly and severally, our full and whole power and authority for us, and our successors, to do, consent, and agree, unto all and every such acts, ordinances, decrees, and things, which at the same Brotherhood, by the said mayors, jurats, and commoners of the said Cinque Ports, and two ancient towns there assembled, or the greatest part of them, shall be enacted and ordained, established and decreed, for the public weal of the Cinque Ports, their two ancient towns and members. And we do, for us and our successors, ratify, allow, and hold firm and stable, whatever the said persons before-named, or the greatest part of the said assembly, shall, in the said Brotherhood, do, ordain, consent to, or establish as aforesaid."

By the summons for holding a Court of Brotherhood, it appears, that it was addressed to the Combarons, a title given to the whole body of freemen at each port, and their two ancient towns, and the commission given to the delegates of each place, is addressed to the mayor, jurats, and commonalty of the Five Ports, and their two ancient towns. They send greeting, and say, "at a common assembly of us, the mayor, jurats, and commonalty of the ancient town of Dover, we have chosen, and constituted, and appointed A. B. C. D. &c. to be and appear for us, and in our names, at the said Brotherhood, and in our stead, and by these presents jointly and severally, we give our

whole power, to do, consent, and agree to whatever shall be agreed to, for the public weal of the Cinque Ports, and their two ancient towns." As the whole body of the freemen in each particular port, and their two ancient towns, were to pay individually their proportion of the current expences of the year, it was as indispensably necessary that they should have a voice in electing their representatives in a Court of Brotherhood as in parliament, nor could the money be taken out of their pockets without it.

When the delegates assembled and produced their commission, the business of the court was opened by the clerk's reading, first, the speaker's letter, and the returns from the different ports. He next called over the several persons named in the commission, and such as did not appear and answer, were fined. If either of the ports or towns failed in making a return, or if their return was defective, they were fined as a corporal body for their neglect or contempt. The speaker, as soon as this business was settled, informed the court of the reason of his assembling them.

The first thing was to receive the report of the bailiff from Yarmouth. They were ordered to the bar, and standing there uncovered, they related every occurrence which had happened during the fair, especially all that related to the keeping of the peace, and the regulating of the fishery. If it appeared that they had diligently discharged their duty, they received the thanks of the court; but if there were any complaints against them, either for neglect of administering justice, or for partiality, they were fined according to the nature of the offence. The bailiffs elected, were next called to the bar, and if they were approved of by the court, they were sworn, and took their seats with their brethren on the bench.

* The Barons of the Cinque Ports sent bailiffs to Yarmouth, to regulate the fishery, long before they had any charter of privileges for

* Manship, p. 225.

doing it; and custom, from a remote date, had given their proceedings the authority of law. They went to a bank of sand on the coast of Norfolk, prior to the landing of Cerdick the Saxon, A. D. 485, to catch herrings, and there they dried their nets, and salted their fish; and vessels from the coast of Flanders also frequented the place, to purchase herrings. The sand bank, from this humble origin, grew into repute, as a market or fair for fish, and experience taught the Barons of the Cinque Ports, that some laws would be necessary to regulate the mixed multitude which assembled there. Neither the historian, nor the antiquary, have recorded the sera of their first enacting laws, nor of their appointing officers called bailiffs, to put them in execution; but it was long prior to Edward the Confessor. When custom had established the Barons of the Cinque Ports the Lords of the fair, if not of the soil, they erected buildings for their officers, a prison, a court for the administration of justice, and they received annual rents for lands and tenements.

In the reign of William Rufus, Hubert, the bishop of Norwich, built a chapel there, and put in a priest, to pray for the success of the fishermen and traders during the fair. This was considered, by the Barons of the Five Ports, as an infringement of their privileges; and the next year, they sent with their bailiff a priest of their own, and they dismissed him whom the bishop had placed there. The right of governing the fair was never disputed until the reign of King John, who granted to the burgesses of Yarmouth several privileges in general terms, which the Barons of the Cinque Ports had enjoyed by custom, and prior grants. This first sowed the seeds of dissension between them, and they took root in a fruitful soil, and produced many serious evils. It was not to be expected, that they who had enjoyed privileges founded on immemorial custom, would quietly yield them to new claimants. As both parties were determined, the one to encroach, and the other to defend, they proceeded to such extremities, as to alarm the nation with their quarrels. The King was wishing

to support his charter, and he inclined to the burgesses of Yarmouth ; for by an inquisition taken by several persons of rank, from London, Lynn, and Norwich, it was determined, that the Barons of the Cinque Ports should be forbidden to disturb the fair with their claims, as a change of times had altered the face of things.

This mandate did not produce the desired effect ; for the Barons of the Five Ports employed force to defend their rights. At that time, and for several reigns, the Court of Brotherhood had, at every meeting, business of the utmost importance before them ; for the two parties fought and plundered each other, with all the rancour of the bitterest enemies. Every plan for adjusting matters, that could be devised by the King, his council, and parliament, was equally ineffectual, even when accompanied with threats ; but when time had tarnished the honour, diminished the emoluments, and considerably increased the expences of regulating the fair, their animosities gradually subsided. The Court of Brotherhood taking the whole matter into consideration, they judged it necessary to shorten the time of their bailiff's continuing at Yarmouth, from forty days to three weeks. This was preparing the way for resigning a right which was hardly worth preserving ; for in the reign of Elizabeth, the salary of their bailiffs, which had been twenty-six pounds a year, was raised to thirty. Their clerks had six pounds ; but the stipends of their counsellors, attorneys, and inferior officers, frequently varied. In the fifth year of the reign of Henry the Eighth, the Court of Brotherhood decreed, that the yearly report of their bailiffs sent to Yarmouth, might be dispensed with ; and by another decree, A. D. 1601, the yearly Guestlings were abolished. They continued to send their bailiffs until the year 1663, and it was then decreed, that their services might cease, and an end was put to a contest, which had cost their ancestors much blood and treasure to maintain, from the reign of King John.

The money raised by this court for the various expences of the year, was by a tax on rents ; and the sums collected at each port and

town, were called purses. About the time of Henry the Seventh, the supplies for the year were raised in the following proportion. Hastings and its members, one third; Dover and Romney, and their members, one third; Hithe and Sandwich, and their members, one third. The members which composed this court, were privileged from common arrests; but they were committed to prison for refusing to pay the current expences of the year.

It appears from the records of this court, that in the reign of Elizabeth, when they were forming systems to deprive the freemen of their rights, some of the members had received presents from persons high in office under the Queen, and the court deemed it beneath the dignity of a delegate of the Cinque Ports, to accept such gifts; it was therefore ordered, that if any mayor, bailiff, or town clerk, should wear any cloth or livery of a nobleman, or be a retainer, while in office, he should not enter the room in any such dress. It appears from this decree, that some connexion was formed, at that time, between her majesty's ministers and the leading men in the Cinque Ports; and the cause which first led to an intercourse between them, may perhaps be discovered by the reader in the following pages.

As the services of the Cinque Ports were dispensed with, the holding a Court of Brotherhood became less frequent, and at last, long intervals passed between each summons. After a lapse of twenty-four years, they held a court, A. D. 1750, and another in 1771; but the business they transacted is not worth public notice. In the year 1811, a Court of Brotherhood and Guestling were again attempted; but by some misinformation in the proceeding, they did not open the court when they met, and the business was postponed another year; during which time, they purpose examining the papers and archives of the Cinque Ports and two ancient towns, to gain some knowledge of passed transactions in the court. As they had many privileges to preserve, they ought to have had frequent conferences to inquire if any encroachments were making upon their rights, that proper measures might have been taken to resist them.

The Honour of supporting the Canopies over the King and Queen, at their Coronation.

It is said in the ancient Customal of Dover, that the Barons of the Cinque Ports “ be wont, by the summons of the King’s writ to them directed, to come to the coronation, to do their service.” It may not be accurately known when they first received this honour; for when Edward the First, after the conquest, confirmed it to them by his charter, it was not a new grant; for the Barons had supported the canopies over Henry the Third and his Queen, at their coronation.

The old custom of giving forty days notice by summons, has long been in disuse; and Jeake says, “ I find in a letter of Mr. Richard Kelke to the ports, July 11, A. D. 1603, that he had searched the tower, the rolls, the petty-bag, the six clerks office, and the crown office, to find the precedent for a writ of summons for the Barons of the Cinque Ports, but there was not one to be found.”

This petitionary claim is very ancient, and Jeake, in his time, had a letter by him on this subject, in the old French language. John, Duke of Norfolk, high steward of England, in returning an answer to their petitionary claim, said, that the Barons of the Cinque Ports be admitted to do their service. As soon as the summons was received, notice was given to assemble a Court of Brotherhood, to nominate proper persons to support the canopies, sustained with silver staves, with silver bells gilt, over the King and Queen, and to settle the uniform they were to appear in, and to provide for their expences, as each person purchased his own dress. After the services and the ceremony, they were to take the canopies, the staves, and the bells, as they had been accustomed to do, and to sit in the hall at dinner, at a table on the right hand of the King.

* See MS. Customals.

At a Court of Brotherhood, to settle the uniform of the canopy bearers at the coronation of King James, it was agreed, that they should wear a scarlet gown, reaching down to the ankles, citizen fashion, faced with crimson, silk stockings, crimson velvet shoes, and black velvet caps. At a Court of Brotherhood, A. D. 1604, it was settled, that fourteen shillings and four-pence should be paid to each of the canopy bearers, towards discharging their expences; and this sum was to be raised upon the Cinque Ports, their ancient towns and members.

At the coronation of James the Second, and his Queen, thirty-two of the Barons of the Cinque Ports attended, and they were all dressed in doublets of crimson satin, scarlet hose, and scarlet gowns faced with crimson satin, black velvet shoes, with caps of the same, fastened to their sleeves. They stood with their canopies at the upper end of Westminster hall,^{*} on the west side, and as the procession advanced, sixteen of them received the Queen, under her canopy, supported by six staves, at the foot of the great stone steps. Three supporters were at each corner, and two at each middle staff. The King was received by the other sixteen in the same manner, and they proceeded from the hall through New Palace Yard and King Street, to the nearest door of the collegiate church of St. Peter. The passage was railed on both sides, from the north door of the hall to the entrance into the church, and it was covered with two breadths of blue broad cloth, containing one thousand two hundred and twenty yards, which were strewed with flowers and sweet herbs. The King and Queen left their canopies at the entrance into the choir, and the bearers of them waited to receive their majesties on their return to the hall, after the service of the coronation. At dinner, the Barons of the Cinque Ports claimed the privilege of sitting on the King's right hand, on the right side of the hall, with the archbishops, bishops, the king's serjeant, and the attorney and

* Mr. Boys' Col. p. 319.

² Ceremonies observed at court.

solicitor general. At the coronation of George the Third, the table provided for them was not set in its proper place; and they refused to sit in any other. If any of the Barons of the Cinque Ports attended at the coronation, they had a right to a seat at the same table with the canopy bearers.

After the banquet was over, they waited for the King's permission to return; and they took with them the canopies, the staves, and the bells. For the last four centuries, they have been disposed of in the following manner.—At the coronation of Henry the Fifth, to Hastings; and of his Queen, to Dover and Romney. When Henry the Sixth was crowned, to Sandwich and Hithe. At a Court of Brotherhood, in the thirty-fourth year of Henry the Sixth, it was determined, that the ports should have the canopies, staves, and bells, in their turns. At the coronation of the Queen of Henry the Sixth, Winchelsea had the turn. Dover and Romney, at the coronation of Edward the Fourth; Richard the Third, Rye; and of his Queen, Dover and Romney. At a Court of Brotherhood, in the twenty-fifth year of Henry the Eighth, it was agreed, that the canopies, and their appurtenances, should be disposed of in the following order.—Dover and Romney jointly; then Rye, Sandwich, and Hithe; then Hastings and Winchelsea. At the coronation of Anne Boloine, Dover and Romney. Edward the Sixth, Sandwich, Hithe, and Rye. Queen Mary, the same. Queen Elizabeth, Dover and Romney. It was then agreed, that the canopies and appurtenances, should be divided among them in future.

The Office of Coroner.

Richard the Second, in a charter dated A. D. 1377, confirmed to the Barons of the Cinque Ports, all the privileges they had enjoyed from Edward the Confessor; and the office of coroner, in their respec-

* Jeake, p. 54.

tive jurisdictions, was one of them. The coroner's authority being derived immediately from the King, there were but few beneath the rank of a knight, in counties, who aspired to the office; for it was considered as conferring honour on the persons appointed to it. As the coroners were subject to fines for any neglect or misdemeanor, the law required, that those who held the office in privileged jurisdictions, as annexed to the mayoralty, should have sufficient property within their franchise, to answer the fines.¹ If the commonalty elected any person to be mayor, whose property was not competent to pay the fine, the town was liable to be amerced to make good the deficiency. The town might also be amerced,² for suffering a person who died a violent death to be interred without any inquiry; but at Sandwich,³ and probably at the other ports, they had an ancient custom, by which they dispensed with an inquisition, when the accident and the death were notoriously known to the people. If this custom had not prevailed, prior to any statute, they would not have adopted a dispensing power; but if the coroner was called upon by the king's bailiff, or any of the inhabitants, he was obliged to attend. When a person was found dead within the jurisdiction of Sandwich, the coroner and twelve magistrates examined the body of the deceased, with great care and caution, to enable them to judge, by the wounds or the marks,⁴ whether he had been wilfully killed by any person or persons. If they had any reason to suspect that the deceased had been murdered, they summoned a court, to inquire if there were any suspected persons within their franchise. The practice of summoning what is called a Countie, in the Customals, seems to have been prior to the statute,⁵ which enjoined the coroner to inquire, by a competent

¹ Blackstone's Com. vol. 1, p. 437.—Stat. 3 Edw. 1, ch. 10.

² Hales' Pleas, p. 170.

⁵ Leges Ethel. c. 4.—Reeves, vol. 1, p. 22.

³ Reeves' Hist. Laws, vol. 2, p. 12 & 140.

⁶ Mr. Boys' Col. p. 468.

⁴ Mr. Boys' Col. p. 457, & Customals of the Ports.

⁷ Stat. 4, Edw. 1.

number of good and lawful men, whether they knew if the deceased was killed in a house, or in a bed, or in a tavern, or in company, or in what company he had been. If suspicion fell on any of them, they were to examine who were principals or accessaries, and whether they were men or women, and of what age ; and after a proper inquiry, permission was given to bury the dead body. If any one fled in consequence of the inquiry, the coroner, by the Customal of Romney, was to go to the house of the absconded person, and in the presence of the magistrates he was to take an inventory of all his goods and chattels, and if a freeman, of his rents, and deliver them up to the township, to be preserved, until they could have a hundred court. If the body was interred without making the necessary inquiry, the town was in mercy to the King.

When a suspected person was apprehended at Dover, he was delivered to the custody of the king's bailiff; but at Romney, Winchelsea, and Rye, he might have his enlargement, upon finding a sufficient number of main-pernors to answer for his appearing at the next hundred, to take his trial. If no prosecutor appeared by the third court day,¹ the king's bailiff was then the prosecutor for the King; and the suspected person was to acquit himself by the old method of purgation, or by the oaths of his conjuratores. If he was found guilty of murder, his property was forfeited to the town for a year and a day, and after which it returned to the right heir. It was also the duty of the coroner, to inquire concerning the death of a person dying in prison, and of treasure trove, and of wreck of the sea; and whether there were any who lived extravagantly, and frequented alehouses.

Intemperance and extravagance, in the days of our ancestors, were deemed sufficient to ground a suspicion that they had² found treasure; and if they were called upon by the coroner, they were obliged to prove their innocence, by four or six witnesses, according to the degree of suspicion.

¹ Mr. Boys' Col. p. 465.

² Unfrivil's Coro. p. 212.

As the coroner's office was considered as a post of honour, he had no fee annexed to his duty ; and he was liable to be imprisoned at the King's pleasure, for concealing of felonies, and neglecting to take inquisitions when called upon in cases of premature death. But as trouble was attached to honour, and without any emoluments to soften the toil, the coroners grew remiss in their duty, and frequent complaints were made against them. This induced the legislature¹ to enact, that a fee of thirteen shillings and fourpence should be paid for every inquisition taken, on the view of a dead body, slain by violence ; and the sum for to be levied on the goods and chattels of the slayer. If they should be found insufficient to answer the sum, the coroner was to be paid from the fine levied on the town, for suffering this murder.

This statute induced the coroners to claim the same sum for every inquest taken by them ; and they refused to make any inquiries, unless the money was paid to them. Their refusal,² in a course of time, produced another statute, which imposed a fine of forty shillings upon every coroner, who neglected to do his duty. The fine might be levied by applying to a justice of the peace, who had power to settle the business in an easy and expeditious manner. To check the inhumanity of jailers, and to encourage the coroners to be active, it was enacted, that twenty shillings should be paid for every inquisition taken upon the body of a person dying in jail. The coroners were also to receive nine-pence a mile for travelling expences, of the clerk of the county rate ; but if they took any further fee or reward, they were to be deemed guilty of extortion. The coroners of cities, boroughs, and privileged jurisdictions, were not entitled to any fee, when they did not contribute to the county rate, but they were to be

¹ Stat. 4 Edw. 1, and 15 Edw. 3.

² Stat. 3 Edw. 1, c. 9.

³ Stat. 3 Henry 7, c. 1.

⁴ Stat. 25 Geo. 2, c. 29.

guided by their ancient customs; and every coroner, convicted of negligence or extortion, was to be dismissed his office. In Dover, the fee of thirteen shillings and four-pence hath been demanded for every inquisition, whether for murder or accidental death; and, for a long time, it was either paid by the friends of the deceased, or the parish officers, out of the rate raised for the relief of the poor.

There is another imposition, of modern date, introduced by the coroner and his jury, by adjourning to a public house, instead of going to the court hall to give their verdict, after having taken a view of the body. As this custom is not derived, like many others, from the practice of past ages, the sum spent, under a pretence of making something for the house, appears to be an extortion. It has proved a heavy tax, when forced from an unfortunate widow, who has been obliged to sell a part of her little property, to discharge the sum spent by the jury. This practice continued to increase, until common decency pointed out the necessity of checking it, and the jury are now confined to the spending a trifling sum; and the only reason for mentioning it is, that it may never be suffered to increase again. The spending money by a jury after an inquest, is far from being singular; though the unlettered magistrate, in former time, would have blushed at it; and it is now high time that the law should put an end to all such impositions. If a coroner is now to be fined five pounds for neglect or misbehaviour, and to be dismissed from his office for extortion, every magistrate, acting in this capacity in a privileged jurisdiction, ought to consider, how far this practice of allowing the jury something to drink may affect himself, as he cannot prove charter, custom, or prescription, to countenance it; and the statutes have not made any provision for adjourning to a public house. It was the demanding illegal and exorbitant sums of the parish officers, that first led them to doubt, and then to withhold, the payment of their demands; and this was the cause of levying a new tax on the inhabitants of the town of Dover, and its members.

The Cinque Ports were exempted by charter, and by several statutes, from paying to certain sums raised by counties, for particular purposes, and they had never been, like many other places, taxed with a county rate. About the year 1794, the magistrates, by the authority given them in the statute of the 13th Geo. 2, levied a tax of one penny in the pound on the inhabitants of the town of Dover, and a halfpenny on their members in Thanet. To this order of sessions, the officers of the parish of St. Mary, in Dover, and the town of Margate, both appealed; and each of them rested the merits of their case upon different objections. The officers of the town of Margate, considered themselves exempted from all such taxes, by having paid a yearly contribution in lieu of them; but this was over-ruled by the court. The officers of the parish of St. Mary appealed, because the rate was unequally made, and it was quashed; but by the report of one of the magistrates, they did not make any alteration in the next rate. This was the occasion of a second appeal, with an intent to remove the order of sessions, by a writ of certiorari in the court of King's Bench, as they did not expect any redress in their own court. The counsel, in his pleading, informed the magistrates that their whole proceedings were illegal; and that they were required to make an equal rate; and that the inhabitants within their jurisdiction in Thanet, should be allowed to draw upon their treasurer, for such expences as they had a right to receive from him; but his pleading was in vain. The court confirmed the rate; neither would they suffer a question to be stated to the court of King's Bench, and there was no remedy, as they had made no record in what proportion they had levied the rate. They now raise the tax, expend the money, and pass their own accounts; and as the law stands, those who pay cannot inspect them, nor have they any remedy.

The Barons of the Cinque Ports, from a very early period, had a seat in the Great Council of the Nation.

It was the practice of our Saxon ancestors, to assemble their wisest men, and their greatest warriors, to deliberate on public affairs, and the Barons of the Cinque Ports attended their *witenagemot* as early as Edward the Confessor.

* It was necessary, under the laws of Æthelstan, for a Ceorl to have five hides of land, a church, a kitchen, a seat at the city gate, and an office in the King's hall, to be liable to be summoned to the great council of the nation; but the door was not shut to the merchant, for he might receive the same honour, by freighting a ship three times with the produce of his country, at his own expence, and disposing of his freight at some foreign port.

The inhabitants of the Cinque Ports were conveniently situated for trafficking to the continent with their neighbours on the opposite shore; and they could fit out a fleet to annoy an invading or a piratical enemy. It was by their being merchants and warriors, that they were raised to a seat in the national assembly, with the great Barons of the realm, before the citizens and burgesses of other cities and towns in the kingdom;* and they had the precedence of knights. It hath been said, that the qualification was changed to six hides after the Norman Conquest.

As there are but few legislative acts that have reached us, which passed in the national assembly, during the reigns of the first Norman Kings, it may be difficult to determine, not only how the first councils of the nation were assembled, but what power and privileges the members of them possessed.

* Wilkins' *Sax. Laws*, p. 70, 71.

* Brady's *Ans. to Petyt*, p. 136, 142.—Matt. West. Knighton, and others.

Henry the First, in the sixteenth year of his reign, raised a tax on every hide of land, at the marriage of his daughter; but in the following year, the Barons made terms with him, and obtained a charter of privileges. From that period, the Barons kept rising in their demands, and they increased with the necessities of their Kings, until they obtained the great charter, and the charter of forests.

But a material alteration was made by the Earl of Leicester, in summoning persons to assemble in their great council, after Henry the Third and Prince Edward were made prisoners at the battle of Lewes. The royal family being in the power of the Earl and his party, their first step was to deprive the King of all authority which did not proceed from themselves. The Lords of Leicester and Gloucester, and the Bishops of London and Chichester, were appointed the King's counsellors; and he was obliged to sign such instructions as they presented to him, under the threat of being himself deposed, and the Prince kept a close prisoner.

After they had enriched themselves with the spoils taken at the battle of Lewes, and had obtained grants of lands and manors belonging to the conquered party, they judged it expedient to settle a plan of government. Leicester ordered writs to be issued in the king's name, to archbishops, bishops, priors, and abbots, and such of the noblemen as were of his party; and also to sheriffs of counties, to the Cinque Ports, and to cities and boroughs, to send proper persons to parliament, to consult on the affairs of the nation.

The parliament which he assembled, seems to have been founded upon a more democratic basis than any one which had been held since the Norman Conquest. Leicester's motive for this step, was to gain popularity, and to strengthen his party, that he might more easily humble his rivals among the great Barons, who looked with a jealous eye at his rising greatness. Whether Leicester only restored

¹ Hist. Mod. Europe, vol. 1, p. 419.—Perog. Parl. p. 228.—Harl. MSS.

the ancient mode of summoning persons from the emancipated cities and boroughs, or gave the first rude outline of our present house of commons, it answered his interested views; but neither he nor his partizans discovered, at the time, that they were laying a foundation, for a power gradually to rise up, to rescue the kingdom from a regal and aristocratical tyranny.

The ancient writs, or summonses to parliament, were first addressed to the Barons and Bailiffs of the Cinque Ports, as they now are to the Governor of Dover Castle. They were ordered, in the writ issued in the reign of Henry the Third, to send four of their most legal and discreet men, to consider on such business as the parliament was to take into consideration; and more especially on the enlargement of Prince Edward.

After the King was delivered out of the hands of his counsellors, or rather his keepers, he omitted to summon the citizens and the burgesses to the parliament, which was called in the fifteenth year of his reign; and it is very probable, that they were not summoned again until the twenty-second year of the reign of Edward the First. Some have been inclined to believe, that the summoning of citizens and burgesses, and the Barons of the Cinque Ports, were coeval with each other; but the services which the associated ports had long rendered to the different Kings, and the privileges they had obtained, before other cities and towns had charters of emancipations and liberties, seems to render such an opinion very doubtful. There is so little to be gathered from the scanty pages of historic legislation of this early date, that the antiquaries have been perplexed to fix on an æra, when the cities and towns first sent representatives to parliament, and what particular class of people elected them. It has also been questioned, whether the persons who were sent, in obedience to the king's writ, could be considered as acting under the instructions of their electors.

Emancipation was too highly valued at that time, either for the Barons of the Cinque Ports, or the inhabitants of free cities and boroughs, to delegate any member of their body, to use their own pleasure, or to do any act, which might in its consequences tend to injure their privileges ; and it is very clear, that they restricted their representatives, in their common assemblies, to act as they directed them. Even Oliver Cromwell, when he issued his summons for a parliament, A. D. 1656, considered the persons to be sent from the Cinque Ports, as receiving authority from their constituents. He required that they would send one Baron from each of the ports of Sandwich and Dover, and also from the town of Rye, of the best and most wise of their body, to appear at the day and place appointed ; and he required further, that they might have full and sufficient authority from their ports, to consent to those things which should be proposed to them, lest, through the defect of such power, the public business might be retarded. The names prefixed to this writ, were John Lambert, John Deshborough, and Robert Blake, constable, warden, and admiral of the Cinque Ports.

When Edward the First intended to raise money by tallage, to recover his continental towns and castles, several of the cities and boroughs were grown rich by industry and commerce, under their charters, and the King might prefer the calling of a parliament, upon the same plan, and for the same reason; that Leicester had done. The parliament called by Edward, is the first in which there is any certainty of the citizens and burgesses being summoned by royal authority. They agreed, in that assembly, to give the King a certain part of their property, as tallage ; and as this was done without compulsion, he neither hazarded the displeasure, nor the loss of the loyalty of his subjects.

As money was to be obtained, by gaining the consent of the people, through their representatives, the plan of summoning the citizens and burgesses to parliament, seems to have been preferred to the

¹ Mr. Boys' Col. p. 757.

demanding of supplies in the high tone of authority, which might be resisted. The persons who were sent to parliament from the Cinque Ports, were for several years allowed a stipend¹ from their constituents, to support them during their absence. They had two shillings a day until the year 1576, and from that period four shillings, until the bartering system was fully established, and then their pay ceased. The supporting of their representatives had been considered as a heavy burden by several towns, and they endeavoured to evade it, by not making any return to the writ, which was probably at first addressed to the principal inhabitants of the place. To prevent this growing evil, the writs were sent to persons high in office, who might be answerable for any omission ; and the writs of the Cinque Ports were sent to the Constable of Dover Castle. This might be the means of insuring regular returns to the writs, and this might be all that was originally intended ; but it led on step by step, until the Barons of the Cinque Ports were deprived of the privilege of electing their own representatives.

As early as the reign of Henry the Sixth, a trafficking system was begun by the mayor and magistrates of the town of Dover, either with the consent or the connivance of the Constable of the Castle. They entered into an agreement with the mayor and jurats of Faversham, that for forty shillings annually paid to them, they should once in three or four years, name a person to represent them in parliament. This is a striking proof, that the sending of members to parliament was not valued then as it is at present, as it could be purchased at such an easy rate, nor could the person returned make so much of the traffick ; but poverty and venality have always been alert when there was any thing to be gained by the bargain.

About this time, the inhabitants of the Cinque Ports petitioned that their representatives might be permitted to return home, after an

¹ Mr. Boys' Col. p. 402 & 474.

absence of four weeks, or only a part of them to remain, according to ancient custom ; but the statute which passed in the reign of Henry the Sixth, to limit the electors voting for knights of the shire, is the corner-stone of that bartering fabrick which corporate bodies have since raised upon it. Many have considered it as an aristocratic act of power, which wounded the principles of our constitution, by depriving electors of their votes ; but they have not attended to that mass of corruption which it hath diffused through the body politic. If we may judge from the words of the statute, they go no further than to say, the evils which are mentioned might arise ; and this seems to imply a doubt, whether the passing of the act was a necessary or only a political precaution. The statute not only diminished the number of votes in counties, but it pointed out to the rulers of corporate towns, how much might be done within their own jurisdictions, by passing a few bye laws. When ancient records have been destroyed, or design-
edly withheld, it may be difficult to trace the first encroachments on the common rights of the people in particular franchises ; but it is cer-
tain, from authentic documents, that the mayors and jurats of the Cinque Ports, attempted to introduce the aristocratic system of govern-
ment into each of their jurisdictions, as early as the reign of Henry the Eighth.

A few interested individuals had formed the design of securing all power to themselves, at a more early period ; but it was, at the time I have mentioned, systematically pursued by the magistrates, who were fully convinced, that they never could glean much in their official capacities, until they could secure a permanent authority in their respective towns. As there was but little probability of fixing them-
selves upon the bench for life, by open force, they adopted a more slow but certain method, which was, by endeavouring gradually to extend their authority, by narrowing the privileges of the free Barons.

At a meeting of the Court of Bröfierhood, A. D. 1572, the mayors, jurats, and members assembled, decreed, that no person in future

should be elected to represent either of the Cinque Ports, or their ancient towns, in parliament, unless they were free Barons, and resident in the port or town, or an adviser of the ports, under a penalty of forty pounds. The decree was evidently intended to introduce her majesty's ministers, or some of the courtiers, into the important office of representatives of the Cinque Ports, for such favors as they had or might bestow upon them. As this decree did not deprive the freemen of their vote, and they had no prospect of gaining the honourable station themselves, they might think it a matter of indifference who represented them; and from the interested motives of the few, and the inattention of the many, we may trace, as from a poisonous spring, that stream of corruption which has palsied the whole body politic.

If the free Barons of Dover made any opposition to the decree, the record of it has not reached us; and if they did not silently assent, they reluctantly submitted, and the magistrates were determined to secure the advantages they had gained. Six years had hardly elapsed, before they made their grand attack to restrain the free Barons from voting for a representative in parliament. They formed a plan to narrow the path to the freedom of the town, that they might secure to themselves every place of emolument worth accepting within their jurisdiction. Some of the magistrates in the different ports, either were not equally active, or they met with more opposition, than the magistrates did at Dover, and they retired from a contest which they could not legally support. This alarmed the fears of those who had secured the fortress, and every avenue leading to it, provided they could persuade the Court of Brotherhood to support their own decrees. In order to stop the defection which appeared in some of their members, the most active of the delegates, A. D. 1603, introduced the subject again, for the further consideration of the court.

* See an Act of Cession of Rights.

In the preamble of the decree which they passed, they recited a part of the former decree, which they said had been found by experience wholesome and profitable to the public weal of the Cinque Ports, and their ancient towns and members; for it was made upon good and due consideration; and yet the same had not been observed, to the great prejudice of the ports, their towns and members. They therefore again ordained and established, "that if the mayors, jurats, and commonalty of the said Cinque Ports, and their ancient towns, at any time or times hereafter, shall elect or chuse any person or persons to be a Baron for any of the said ports or towns, to represent them in parliament, excepting such a person be a freeman, and an inhabitant of the ports, their two ancient towns, or their members, or some one of them, before or at the day of test of any writ; that then the mayor, jurats, and commoners, of every of the said Cinque Ports, and their two ancient towns, shall forfeit and pay, for every time so offending, the sum of forty pounds, to be recovered by action of debt, bill, or plaint, to be prosecuted in any of his majesty's courts of record, within any of the Cinque Ports, or their two ancient towns, that will sue for the same, wherein no essoign, protection, or wager of the law, shall be allowed the defendant, or any of them. And it is further ordained and established, that every plaintiff, in every such action, to be prosecuted as aforesaid, by virtue of this act, against any offender, shall recover his ordinary cost in the prosecution. And it is further ordained by the mayors, jurats, and commoners, of the said Cinque Ports, and their two ancient towns, now assembled, that if any freeman of the said ports or towns, shall go about to give votes for electing any person whatsoever, to be a Baron of the said Cinque Ports, or their two ancient towns, to any parliament hereafter, than in this act mentioned, that then every freeman, for every time so offending, shall forfeit the sum of ten pounds, to be recovered as before directed."

One moiety of the penalties, forfeited under this decree, was to be distributed among such of the ports as observed this law, made by the

delegates of the Cinque Ports, and the other to any freeman who would sue for them. In order to make this act publicly known, it was directed to be read at the next hundred court, in every one of the Cinque Ports, and their two ancient towns, and upon every day of the election of a Baron to serve in parliament, under the pain of every head officer forfeiting the sum of ten pounds for every neglect. This decree laid a foundation for each of the corporate bodies of the ports, and their two ancient towns, to raise different political superstructures in each of their separate jurisdictions.

Strange as it may appear, this ordinance continued in force until the year 1628, when it was very much shaken by a resolution of the House of Commons; as it was determined, that every freeman and burgess ought to have a voice in the election of a representative to serve in parliament. This resolution, in more favourable times, would have restored the rights to the freemen; but the turbulent reigns of the Stuarts encouraged the magistrates to hold fast the power they had obtained, until it was wrested from them by the strong arm of the law.

The Constable of Dover Castle, finding the mayors and jurats continued to keep fast the advantages they had gained, he was desirous of dividing the privileges with them, and returning one representative himself, for each of the Cinque Ports, and their two ancient towns. The wish of the Constable was gratified by the delegates of the Court of Brotherhood, and this union of power and interest was not easily broken by a detached number of people; but the freemen attempted it towards the close of the reign of Charles the Second.

In the year 1679, a precept was sent to the Constable of Dover Castle, and in his absence to his deputy, John Strode, esquire, for the free Barons of the town of Dover, to return two representatives to parliament. On the day of election, the freemen had the resolution to form an union to assert their rights, of giving a vote to a candidate of their own nomination, and they had a majority of votes at the

closing of the poll. To the return which they made, there was annexed an indenture, between John Strode, esquire, the deputy governor of Dover Castle, on the one part, and the commonalty of the town on the other, witnessing, that they had elected William Stokes and Thomas Papillion, esquires, their representatives in parliament, and to this instrument there was prefixed the common seal of the town. There was also a second return, said to be an indenture, witnessing, that George West, deputy mayor, J. V. and A. N. jurats, five of the common council, and ten persons more called Barons, who had met in a full hundred, and chosen Thomas Papillion and John Strode, gentlemen, to represent them in parliament, and to this instrument there were eighteen seals fixed, but no seal of office; yet this was called a good return, well and truly made.

Under the influence of power, such irregularities as these had been practiced, a considerable time, in defiance of chartered rights, and the law of the realm. As the statute which passed in the reign of William and Mary, did not impose fines and imprisonments, it was not regarded in privileged jurisdictions; for in the preamble to the next act of parliament, it is said, "that whereas false and double returns of members to serve in parliament, are an abuse of trust in matters of the greatest consequence to the kingdom, and not only an injury to the persons duly chosen, by keeping them from their services in the House of Commons, and putting them to great expence, to make their election appear; but also to the counties, cities, boroughs, and the Cinque Ports, by which they are chosen, and the business of parliament disturbed and delayed; and it being high time to stop such proceedings, it is enacted, that all false and double returns, wilfully made, shall be illegal, and the officers making them liable to pay treble damages and costs of suit." As this was too great a risk for the mayors of the Cinque Ports individually to support, for making false returns, both the Constable and the corporations were obliged to give up their pretensions of right to return representatives for the Cinque Ports.

The only method the rulers of the people had then left, was to narrow the path to the freedom of the towns. While the bye laws of the magistrates were implicitly obeyed, they either received or rejected the votes of the non-resident freemen, as it suited their purpose; and their rights of voting depended upon the will of the mayor and his brethren. In the contested election in 1770, it was judged expedient to settle this point, by an appeal to the House of Commons. The question to be determined was this, whether a majority of the resident freemen in the town ought to return their representatives in parliament, independently of the non-resident freemen? The committee resolved, that the resident and the non-resident freemen have a voice.

The bringing in the non-resident freemen, and the opposition which magistrates have met with, hath entailed such an enormous expence upon the candidates at a contested election at Dover, that country gentlemen cannot any longer prudently offer themselves, and those who do, generally waste their property in the contest.

The port of Hastings, and the two ancient towns of Winchelsea and Rye, still, continue under the influence of a few persons, by being kept in ignorance of their ancient privileges, and their chartered rights; but when their Customals are made public, they may, perhaps, inquire by what authority they have been deprived of their rights, and the reason they have been withheld from them.

*The ancient and the late method of raising the Militia and Land Forces
in the Cinque Ports, and their Members.*

The inhabitants of the Cinque Ports, and their members, by their situation on the coast, were frequently obliged, in the early part of their history, to unite and guard the shore, to prevent piratical parties landing, and plundering their towns. All persons admitted to the common privileges of the Cinque Ports, were sworn to keep watch and ward. In times of public danger, they had night watches for

guarding their walls, and day watches on the coast, if their Wardens judged it expedient for their common safety ; but they were not to be marched beyond their own jurisdictions, unless it was for the assistance of each other, as it would have been leaving their own habitations in a defenceless state.

The being embodied under their own leader, to defend their own towns, and to assist each other, induced Charles the First to call on them to raise three hundred men for the land service ; he assured them, that their complying with his request, should not be considered at any future time as a precedent to encroach on their privileges.

The Barons of the Cinque Ports considered themselves exempt from this kind of service, and they did not raise any men ; and the Constable of Dover Castle was ordered to levy a tax of three pounds each, for as many persons as they were deficient. As they had not raised a single person, he issued his order for levying a tax of nine hundred pounds, for raising and equipping the three hundred men for the King's service. The Barons of the Cinque Ports, and all their members, excepting Rye, refused to pay the fine ; but the inhabitants of that town purchased their exemption for thirty pounds. This was considered as a concerted scheme between the King and the Constable for fixing a precedent, for raising land forces within the jurisdiction of the ports, on a future occasion. Several attempts were afterwards made and uniformly resisted, and when they were called upon in the high tone of authority, and threatened with chastisement in case of denial, they applied to counsel, and as his opinion was not so decisive as they wished, they pleaded an exemption from immemorial custom, from raising land forces for the King's service ; as they were apprehensive the demand might be repeated and enforced by a power they could not resist, they determined to petition parliament, but they were prevented by a sudden dissolution of it.

In this critical situation application was made to the Chancellor, and they pleaded their exemption by charter, by statute, and by

custom ; and they concluded with saying, that it was contrary to their privileges, and endangering the safety of their towns, to march them out of their jurisdictions. The Chancellor referred them to the Lord Chief Justice Finch, and the other judges, and they left the subject open for further consideration.

In the year 1643, Sir James Oxenden, Sir Edward Boys, and John Boys, esquires, addressed a joint letter to the speaker of the Cinque Ports, and requested that they would join with the counties of Kent, Sussex, Surry, and Hampshire, in raising a body of land forces for the defence of the country, and more especially Kent ; and to have one thousand foot, and one hundred horsemen, to guard the coast. This letter being read to the delegates of the ports, at a Court of Brotherhood, those from Hastings, Romney, Dover, and Sandwich, were decidedly against it, and they declared that they were not to be assembled under any leader, but the Constable of Dover Castle, and in defence of their own towns. They considered the privilege of remaining at home, to defend their own dwellings, was granted to them by the charter of Edward the Fourth, which says, “ We have granted to our Barons and good men, that they, and their heirs and successors, and other residents whatsoever, within the ports and members, contributors, or who shall be contributors to the service of shipping, may for ever be quit of all aids, subsidies, contributions, tallage, and scots whatsoever, which from them, or any of them, by reason of their lands, tenements and rents, goods and chattels, or any of them, which now they may have, or from henceforth may have, by us or our heirs, or bailiffs, or ministers of us or our heirs, ought or might be expected, if the aforesaid grant to them had not been made ; and that whensover the commonalty of the counties of our kingdom of England, and the citizens and burgesses, and boroughs of the said counties of the same kingdom, have granted a tenth or fifteenth, or any other scot or tax whatsoever, of their moveable goods, or of their lands, tenements, or rents, to us, our heirs or successors, shall make to be taxed through-

out England, the Barons aforesaid, their heirs and successors, and their ports and members, and the lands and tenements, and goods and chattels of the aforesaid Barons, their heirs and successors, and other residents, and every of them, whether within the liberties of the said ports and members they shall be, or without in the counties of Kent and Sussex, to the use of our heirs shall not be taxed, distrained, molested, or in any thing grieved, but for ever quit, though they may be parties, agents, or some of them party agents, from granting to such grants."

The words of this charter agreeing with their ancient customs, the Barons of the Cinque Ports considered themselves, and their residents, exempted from all service, excepting the fitting out of their ships for the King's use. But this did not terminate the contest; for when Sir Edward Guildford was Constable of the Castle, he issued a mandate, for the ports to raise a certain number of men for the army, and they answered again, that they were not to be drawn from their own franchise, nor sent to any foreign service, not even if the King was there in person.

This was about the fifteenth year of the reign of Henry the Eighth; and it was then that they first impressed for the sea service, within the jurisdiction of the Cinque Ports. They uniformly resisted raising any men to serve in the field, until the statutes were passed in the reign of Charles the Second, which are now considered the old militia laws.

It was then enacted, that the Constable of Dover Castle, should have power to put in execution all the authority given to the lieutenants of counties, within the liberties of the Cinque Ports, relative to the raising of the militia. As the Barons of the ports had been charged with a greater number of arms and armed men than other ports of the kingdom, they were not to be charged for their estates in the adjacent counties higher in proportion than other persons, nor were they to be marched beyond their own towns, to any exercise within the counties.

The penalty for refusing to raise a horseman was forty pounds, and five pounds for every footman. The new militia laws, which repealed the old statutes, left the Cinque Ports in the same situation, for their ordinary meetings for training a company, were not to exceed four times in a year; neither were they, or their officers, obliged to be out any longer time, on any exercise or muster. This was raising a mob, at a considerable expence to individuals; and if it gratified the vanity of a few persons, who obtained the titles of colonel and captains, it could never be of any national service.

During the American war, the Warden of the Cinque Ports was desirous of shewing his zeal for the cause in which he was embarked, and instead of calling out the militia in the usual way, he proposed the raising of a regiment by subscription for general service, to be called the Cinque Ports Volunteers, who were to serve during the war, but not to be sent out of the kingdom.

This scheme was eagerly promoted by the leading men in the different ports, and their members, and many of them were rewarded with commissions, which were considered of more importance than contending for ancient privileges. While the Right Hon. William Pitt was Constable, he summoned the delegates of the ports and their members, to meet him at Dover Castle, to consider of a plan for raising by subscription several companies of horse and foot, to be called Fencibles. This plan was also adopted, and the following sums were raised to carry it into execution.

	£. s. d.		£. s. d.
The Right Hon. W. Pitt, Warden of the Cinque Ports, and Constable of Dover Castle,	1000 0 0	Charles Small Pybus, esq.	100 0 0
Colonel North, Governor of Dover Castle,	100 0 0	John Smith, esq.	50 0 0
John Trevanion, esq.	100 0 0	Port of Dover,	885 2 6
		Sandwich,	887 18 6
		Hastings,	325 5 0
		Romney,	104 17 6
		Hithe,	92 12 0

	<i>s. d.</i>		<i>s. d.</i>
Town of Rye,	398 5 0	Town of Margate,	538 16 6
Winchelsea, ..	327 0 0	Saint Peter, ..	105 0 0
Faversham, ..	236 16 6	Birchinton, ..	30 0 0
Folkstone,	144 14 0	Ramsgate, ...	270 0 0
Fordwich, ...	93 0 0	Walmer,	186 0 0
Deal,	218 9 0	Sarr,	73 15 0
Seaford,	50 0 0	Beakesbourne, ..	36 16 0
Tenterden, ..	167 0 0		

The men, when raised, were to be under the general of the district, and to be marched wherever he directed them, in case of actual invasion. This was, in effect, cancelling their ancient privileges, and preparing the way to connect the Cinque Ports with the county ; and this was the use their Warden made of it. In the statute which was passed for raising seamen, the county of Kent was to raise a fixed number, and the port of Dover was to raise twenty-seven of them, and the other ports in proportion, according to the number of houses in each parish ; and it cost Dover, and two of its members, the following sums.

Parishes.	Houses.	Sums.
St. Mary,	1152	£418 16 10½
St. James,.....	230	83 12 5½
Charlton,	29	10 10 10½
Ringwould,	24	8 4 6½

In consequence of an act which passed in 1798, to provide for the better security of the kingdom, the Warden issued his precept to all mayors and bailiffs, within his jurisdiction, and directed them to instruct the churchwardens and overseers of each parish, to make an accurate return of every person residing in their respective parishes, from fifteen years of age to sixty ; and how many incapable of active service, by reason of age and infirmities ; how many engaged as volun-

teers, and in what corps ; and how many willing to be exercised, and to stand forward for the defence of the kingdom. They were also to inform the Constable, whether they would serve gratuitously, or for hire ? whether as boatmen or bargemen, or drivers of carriages, horses, or cattle ? or whether they would act as pioneers or labourers, in such works as might be deemed necessary for the public service ? They were also to make returns of all aliens, or quakers, and other persons, male and female, who were incapable from their sex, their age, their infancy, and their infirmities, of retreating before an invading enemy. They were also to mention the boats, barges, waggons, horses, and carriages, they could furnish, and the number of persons, of different denominations, they could raise, that the King, or those who were acting under him, might determine on the most expeditious method of removing those who were incapable of providing for their own safety, and of taking away every thing which might be useful to the enemy. The Constable's precept produced the following return for the parish of St. Mary, in Dover.

Total of men capable of active service, from 15 to 60	1444	Draught horses	140
Infirm and not fit for service....	34	Waggons	22
Serving in different volunteer corps	329	Carts	56
Aliens	23	Corn mills	2
Quakers	23	Corn they can grind in a week, quarters	40
Persons which from infancy, infirmity, and other causes, incapable of providing for themselves	1436	Ovens	28
Oxen	6	The quantity of bread they can bake in 24 hours—sacks	229
Cows.....	42	Wheat—quarters	75
Young cattle	10	Oats ditto	324
Sheep and goats.....	67	Barley ditto	79
Pigs.....	292	Beans and peas—quarters	232
Riding horses.....	70	Hay—bads	50
		Strew ditto	50
		Potatoes—sacks	1

Empty Sacks	533	Spades	11
Malt—quarters	700	Shovels	36
Number of persons willing to serve on horseback, armed with swords and pistols	11	Bill-hoeks	2
On foot, with firelocks 7—pikes 3	10	Saws	51
Pioneers and labourers	31	To serve as drivers of cattle	41
Pickaxes	4	To go with waggons and carts..	10
		As guides.....	17

The Warden, at a meeting of the mayors and jurats of the ports, allotted them, under an act for the more effectually raising and assembling in England an additional military force, for the better defence and security of the united kingdoms, to raise four hundred men for the army of reserve, in the following proportions.¹

Hastings, and its members	22	Folkstone	13
Sandwich, ditto.....	67	Seaford	9
Dover, ditto.....	137	Lidde.....	8
Romney, ditto.....	9	Fordwich	2
Hithe, ditto.....	14	Tenterden	28
Rye	16	Deal	46
Winchelsea	5	Pevensey	6
Faversham	24		

The men were to be raised in the adjoining counties, and they were not to give more than thirty pounds for each man.

For trampling on the privileges of the Barons of the Cinque Ports, by annexing them to the county, and for imposing these additional burdens, they voted the thanks of the meeting to their Constable, for his able conduct in the chair.

As there are now several precedents established, it must be expected that the Cinque Ports will be called upon, at all future times,

¹ In the proportioning of the men, they have made six more than the Cinque Ports ought to have raised.

to raise their quota of men for the land and sea service, in proportion to the number raised by the counties ; and the privilege of any exemption will be soon forgot.

The charter to the Barons of the Cinque Ports, is kept locked up in a chest, with two keys, at Romney ; but there are very few of the inhabitants who know any thing of the contents of it ; and if they have any privilege left, it will soon be lost. The act for raising the local militia within the jurisdiction of the Cinque Ports, has swept away a custom which had subsisted prior to the Norman Conquest, which, for its antiquity, ought to have been respected as the common law of the land. If double the number of men had been wanted, they might have been obtained by the volunteer system ; but there can never be so many procured by force.

If the grants of our deceased Kings are to be disregarded, when they relate to the rights and liberties of the people, it cannot be expected that the grants for pensions, annexed to sinecure places, can long be considered as sacred, when the privileges are no more.

Wardship.

Some have entertained an opinion, upon the slender foundation of what Lambard has said upon the subject, that wardship was included in the first privileges, granted by Edward the Confessor, to the Barons of the Cinque Ports.

There is nothing improbable in supposing the Saxon Kings had the wardship of their minors, nor of their giving the privilege to their subjects ; for the Romans delivered both them and their property to the next of kin, on a supposition, that they would take care of the estate and the expenditure of the income, as they might succeed in case of death.

This was providing for the security of the property, but it was hazarding the life of the heir, if the guardian was a cruel or an avari-

cious person. The northern nations had learned from experience, that in the early ages of civilization, the delivering an infant to the care of the next in succession, was similar to the consigning of the lamb to the care of the wolf, when the life of a helpless child was the only impediment between him and the fortune. Though it may be difficult to say when, and by whom wardship was first introduced among the inhabitants of the cold regions of the north, they found it would be prudent and expedient to risk the preservation of the property, to secure the safety of the heir; and they wisely committed both to those who had no personal interest in the succession.

* Wardship seems to have been very early introduced, by military policy, into the plans of government on the continent; but it remains a doubt, with some authors, whether it generally prevailed in our islands prior to the Norman Conquest. William the First, towards the close of his reign, judged it expedient to introduce a large body of Normans and Bretons, for the defence of the kingdom, which he quartered on the proprietors of lands. The great Barons considered this as a troublesome and disagreeable measure, and they were desirous of adopting a plan which might render foreign aid unnecessary.

At a great council of the nation, to inquire into the internal strength of the kingdom, and to provide against any threatened danger, they preferred holding of their lands of the King, by military tenure, to the having foreign troops quartered upon them. When they consented to this plan, they only intended to put the nation in a state of defence, but they were very soon convinced of their error. The Norman lawyers being deeply skilled in all the various exactions of the feudal law, they soon established wardships in England. The feudal Lord, under the title of wardship, claimed the custody of the heir, and the fee of the estate, until he arrived at the age of twenty-

* Blackstone's Com.—Forteque, c. 44.

one years. The heir of a sokeman was of age at fifteen ; and in burgage tenure, when he could manage his father's business with dexterity.

When the Lord had the custody of the heir, and the fee of the estate, he had considerable power over both of them, for he had the absolute management of the land ; and could, during the minority, dispose of it, but he could not alienate. He was to provide for the heir according to his rank, and the residue of the rent was his own.

This was always considered as a great hardship ; and if the inhabitants of the Cinque Ports had ever smarted under it, they procured the privilege of taking care of their own minors, as early as Edward the First, after the Conquest. It is said in his charter, “ That neither we, nor our heirs, shall have the guardianship, or giving in marriage their heirs, upon the account of any lands they hold within the liberties of the ports, and for which we, or our predecessors, had not the guardianship, or giving in marriage their heirs, on account of their lands which they held within the liberties of the ports, without the let or impediment of us, or our heirs, for ever, any right to the contrary in any wise notwithstanding.”

When a person died within the liberties of the Cinque Ports, leaving a child or children, the mayor of the town, and two or three of the magistrates, claimed the right of taking an inventory of all the lands, tenements and rents, goods and chattels, to ascertain the annual produce of the real, and the value of the personal estate. They next registered the names and ages of the minors, and then entrusted them and their property to a near relation, but not in succession. Those who accepted the trust, were obliged to give security in proportion to the value of the estate, to prevent the orphans suffering any injury, and the town from receiving any censure from the neglect of the magistrates. An indenture, reciting every particular relative to the annual rent,

* Mr. Boys' Col. p. 512.—Customals.

and the personal property, was signed by the mayor, to authorize the guardian to receive the rents and profits arising from the estate, and to apply them, during the pleasure of the magistrates, to the maintaining and educating the minors, according to their situation in life. The counterpart was signed by the guardian, and deposited as a record in the mayor's court.

If the minors had no relative living, the mayor might then covenant with a proper person, for a guardian; but he was to use every precaution for preserving the property, and for maintaining the children.

When the income exceeded the expences, the surplus was reserved for the benefit of the minors; and either the guardian or his securities were to make good every sum which they had misapplied. If the reasonable expences exceeded the income, the mayor and jurats might raise money on their lands, and see that it was equitably expended on the minors, whether male or female.

When their property consisted of ships or houses, which could not be repaired without injuring their income, the magistrates might then legally dispose of them at a public sale. At Romney, this power of alienation¹ did not bar the minors from repurchasing, when they arrived at the age of twenty-one years, if they could procure the means to accomplish it.

The mayor was to attend to the education of the wards of his court whenever he pleased, and he was obliged to do it officially once in every year. If he found them neglected, he could change their situation, and compel the guardian to deliver up an account of his trust. He was to use the same precautions to prevent waste, by taking security of lawful men of the town, to answer for any deficiency. If any sinister practices were proved against the guardians, the mayor² and jurats claimed the right of seizing, and selling all their goods and chattels, and making full restitution for the injury the minors might receive.

¹ Customs of Romney, Winchelsea, Rye.

² Mr. Boys' Col. p. 517.

Until this was done, the guardians could not make a will to be valid, and they were debarred from seeking a redress of their wrongs in a court of law.

If a ward died during the minority, the mayor and *jurats* of Sandwich claimed a right of disposing of the personal estate, which was done as in the case of a person dying intestate. They gave one part to the heirs, and the remainder for charitable purposes, and for as many masses as were thought necessary for the salvation of the soul of the deceased.

The Marriage of Wards.

The right which the Lords claimed to the marriage of their wards, was founded upon the same principle as that law which restrained their vassals from alienating their lands, without the consent of their superior.

The feudal Lords were too jealous of their authority, and too guarded in their policy, to suffer a female to carry her lands by marriage to an enemy; for this would as effectually have weakened their own power, as their vassals parting with their lands without their approbation.

By the law of Normandy, the feudal Lord had a restraining power over his ward, as far as it regarded the safety of the community. This did not extend to an absolute disposal of her person; but it laid a foundation for them to turn their negative voice to some advantage. From simple restraint, they proceeded to demand a premium for their consent, until they assumed an absolute right over them. *This seems to have been the case in England, soon after the Norman Conquest. As early as the reign of Henry the Third, it was enacted, that if any person married a ward, under the age of fourteen, without the consent

* *Customal of Dover.—Mr. Boys' Col. p. 517.—Sullivan's Lectures, p. 142.—Stat. 21 Heny 3, c. 6.*

of the Lord, and against the peace of the King, he was to forfeit the value of the marriage, or as much as a jury would assess, or any one give for the allowance; and he was to pay a fine to the King, or suffer imprisonment until he did it.

When the ward was above the age of fourteen, and under twenty-one years, if she married without the consent of the Lord of the barony, he might hold the lands after the wardship expired, until he had received double the value of the marriage. Though the Lord had such absolute power over his ward, he was not to disparage her, by giving her to any one in an inferior situation; and if any just complaint was made by her friends, the Lord forfeited all his profits arising from the wardship, to the use of the heir. This restraint on the marriage of wards, and the fine which was demanded by the feudal Lord, was considered as a heavy burden by the Barons of the Cinque Ports, and they obtained an exemption; and they had the privilege granted them of disposing of their minors in marriage; and if the consent of the mayor and jurats was not first obtained, the penalty at Sandwich was one hundred pounds, and similar fines were due to the magistrates in the other ports.

The proving of Wills, and granting Letters of Administration.

Though it has been doubted, whether there be sufficient remains of Saxon ecclesiastical history, to ascertain clearly their method of authenticating and preserving of wills,¹ it has been asserted, that it was done before the King and a bishop, as early as the year of Christ eight hundred and eighty.

As the bishop of the diocese acted with the earl in his county court, and with the chief magistrate in certain privileged jurisdictions, it is probable that at such times they proved wills, and made distribu-

¹ Dover Customal.—Reeves' Hist. vol. 1, p. 12.—Mr. Boys' Col. p. 526.—Spelman's Works, p. 130, b.—Leges Canuti, c. 68.

tions of the effects of persons dying intestate, during the reign of the Saxon Kings in Britain.

This practice might be introductory to the privilege of taking cognizance of the goods of the dead, which was afterwards granted to the magistrates of emancipated towns. When this grant was first made to Dover, or when it was last exercised, is uncertain ; but according to their Customals, they enjoyed the right from a remote period of their history.

The person before whom the will was to be proved, in the liberties of the Cinque Ports, was appointed by the archbishop ; and very probably he was an ecclesiastic residing in the town. As soon as the executor had proved the will, he was exempted from all spiritual jurisdiction. The mayor and the jurats then claimed the authority of compelling the executor to deliver in an inventory of the goods of the deceased, and to render an account of his executorship, and to give a legal discharge.

Granting Letters of Administration.

Whenever a Baron of the Cinque Ports died, either within or without their franchises, and his death was certified to the mayor of the town to which he belonged, he took with him two or three magistrates, and either the rector or vicar of the parish in which the deceased had lived, and they went to the widow,¹ and to every person who had any of his effects in their possession, at the time of his death, and they made them swear, upon the evangelists, that they would render an account of all his debts and effects, with which they were acquainted.

Two of the next of kin were then appointed administrators, who were sworn to exhibit an inventory of the goods and chattels of the deceased, on the day assigned them by the mayor. After the funeral expences and the debts were discharged, they made a division of the

¹ Mr. Boys' Col. p. 526.—Stat. 27 Henr. 8, c. 25.

remaining part of the property, according to the custom of the town. At Sandwich, they adopted the practice of the Normans, by dividing the property into three parts; one third was given to the widow, another third to the children, and the residue to charitable purposes, as they supposed the deceased would have bequeathed it. If there were no issue, the property was then divided into two parts; one moiety was given to the widow, and the administrators disposed of the other, with the consent of the mayor, by reserving a reasonable part for holy church, for charitable purposes, and for mending the roads. Even in the reign of Henry the Eighth,¹ the clergy were enjoined by statute, "to exhort, move, stir, and provoke" people to be liberal, and to extend charitable alms towards the comfort and the relief of the impotent poor, not only in their sermons, but at the bidding of beads, in the time of confession, and at the making of wills.

When the administrators had finished their trust, they were to render an account of their administrations to the mayor and jurats, in the presence of the rector or the vicar of the parish, and the friends of the deceased, and they then received their discharge, which was entered on the court rolls.

When a merchant, or any mariner from the continent, died intestate in the port of Sandwich, and probably in the other ports, the mayor and jurats, in the presence of the principal persons and mariners on board the ship, examined all the merchandise belonging to the deceased, and they took it into their own possession; and such commodities as were perishable, were sold to the highest bidder, in the presence of the ship's company; and the money arising from the sale was deposited with the mayor. A letter was then sent, under the seal of office, to inform the magistrates of the town to which the deceased belonged, of the death of their burgess, and what property he had left, and what sum they had received for his perishable goods..

¹ Stat. 22. Henry 8, c. 12.

To their letter, they requested a speedy answer, properly authenticated, to inform them of his heirs, that administration might be granted to his effects, and the money disposed of according to the usual custom.

If they came, his effects were delivered up to them, reserving a small portion for the good of his soul, to be distributed to the minister of the parish, to the carmelites, and others, as the mayor, jurats, and the relations of the deceased agreed. After waiting a sufficient time, if they neither received any answer, nor any person appeared, then the magistrates were conscientiously to dispose of the money and effects, to the most advantage, for the soul of the deceased, in the celebration of masses, and in alms to the poor. This was done, without any interposition of the ordinary.

THE
HISTORY OF DOVER.

CHAP. I.

The first peopling of Dover doubtful. Arrival of Julius Cæsar. Description of the state of society on the coast of Kent by him. The Counts of the Saxon Shore appointed. The Britannic Legion stationed at Dover. A bath built by them. The Romans leave England. The Saxons take possession. Their history involved in darkness.

When we look back to that dark period of history, which treats of the first peopling of towns, cities, and islands, the scanty records of antiquity yield only a faint glimmering of light to direct the search of the inquirer; and even this is frequently obscured by conjecture and fable.

Whether Dover was first peopled by a tribe of emigrating Gauls from the continent, or whether a more ancient colony of Britons were compelled to yield up the possession of it to their Gaulish invaders, may be equally uncertain, as the limits of the districts of the different tribes, settled in Kent, were unknown, as well as their civil and poli-

tical history, prior to the invasion by Julius Cæsar. During the rude and hostile state of society on the continent, when war, depredation, and hunting, were the chief sources from whence the wandering tribes drew their subsistence, and when the strongest preyed upon the weakest and made slaves of them, it may be supposed, with some degree of probability, that the oppressed Celtic Gauls exerted every nerve, to escape from their unfeeling belgic conquerors. When they had retreated to the shore, and could no longer resist the force which was opposed to them, their last resource was to embark in their slender vessels, with their wives, their children, and their weapons of war; and to risk the dangers of the sea, in search of a more safe retreat on our island.

The valley at Dover, in its rude and uncultivated state, was a desirable situation for a tribe of hardy adventurers. They found, on their arrival, a deep and secure bay for their vessels, sheltered from the tempestuous winds by lofty hills, with their sloping sides, at a small distance from the coast, well covered with wood; and the neighbouring springs afforded them great plenty of fresh water. When the wants and the necessities of men could be so easily gratified, in the first rude state of society, it may be concluded, that a settlement was formed at Dover, prior to any remaining records of our history; for we have no authentic information,¹ until about fifty-five years before the birth of Christ, which was the time Julius Cæsar first determined to visit our island. By the knowledge he had gained from traders, he had every reason to expect, that he should find a suspicious and resolute people to contend with on the coast. In this he was not disappointed; for when he arrived with his fleet in the valley, where the town of Dover has since been built, he found a hardy race of warriors ready drawn up on the cliffs to receive him. This hostile appearance of the islanders,² induced him to relinquish his first design of landing.

¹ See History of Dover Castle.

² Cæs. Com. lib. 5, c. 21.

in the valley ; and, after holding a council of war on board his own ship, he weighed anchor, and sailed towards the north east.

Whether the language, customs, manners, and superstitious rights of our ancestors, at that early period, can be traced to any parent stock on the continent, is a subject more curious than interesting, after a lapse of so many ages ; but from Julius Cæsar's description of the habits and arts of the people he met with on the coast of Kent, we learn that their towns were rather constructed for places of defence, than regular residence ; and that they were situated in woods, and on hills of difficult access, and surrounded with a deep ditch. In these strong holds they placed their women, their children, and whatever they deemed valuable.

Their houses were raised with such materials¹ as they found upon the spot. A few stakes driven into the ground, supported a roof, which they covered with grass, reeds, or rushes ; and the fence which inclosed the area of their habitation, was a kind of wicker work, plastered with clay.

Their dress was as rude, and as simple, as their architecture. The skin of a domestic, or of a wild animal taken in hunting, served them for a garment by day, and a covering by night ; but even this was cast aside, both in war, and in the chace.

This has induced authors of credit to conclude, that the ancient inhabitants of our island, like the savages of warmer climates, went naked,² to shew, to the best advantage, their ornamental finery of different metals, on their necks and their waists, in their joyous scenes of domestic festivity ; and to terrify their enemies, in the time of action, with the distorted figures which they painted on their skins.

If there be individuals in polished societies, who are such votaries to fashion, as to forfeit their health, to display their embellish-

¹ Tacitus, Diodorus Siculus, &c.

² Ces. Com.—Herodian, c. 26.

ments to the best advantage to the public eye; yet it would be a hasty conclusion to suppose, that a whole tribe of uncultivated barbarians, would endure the chilling blasts of a winter's sky, to gratify their vanity.

Though the inhabitants on the coast of Kent had made but a small progress in the useful arts, self-defence had taught them to form offensive weapons, and they had learned to construct the war chariot. They had a spear,¹ and a sword; and from the skins of beasts they made shields, breast-plates, and helmets, to defend themselves in the time of action; but they were cast away as an incumbrance, when they were pursued by the enemy.

It is a curious fact, that the war chariot, used by the inhabitants on the coast, attracted the attention of Julius Cæsar; and he remarked, that they had the swiftness of the horse, and stability of the foot, in battle. As the war chariot had never been adopted either by the Romans, or the Germans, or the Gauls, from whence could the Britons derive their knowledge of this method of fighting? It could not be from the mountainous and rocky country of Greece,² nor from the fields of Indostan, where they used the war chariots; but the Phœnicians might import it from Judea, when they came to traffick for tin; or the leader of an emigrating tribe from the north, who settled in Kent, might introduce it.

From whatever country or people they acquired this knowledge, it was not accompanied with any of the useful arts; for in building a vessel, the natives were not advanced beyond the rude attempts of untaught savages. The sides of the vessel used by Ulysses,³ are described as having been formed with oziers, and the inhabitants on the coast of Kent constructed theirs in a similar manner. They made them of wicker work, and they covered them with raw hides, to keep

¹ Strabo, p. 30.—Diodorus, p. 351.—Pliny, &c.

² Mitford's History of Greece. ³ Homer's Odyssey, Pliny, &c.

out the water. Their sails were made with skins of beasts, and their tackling of the same materials, cut into thongs. This description, given by Julius Cæsar, may be considered as authentic; but his observations on the domestic customs of our ancestors, are more liable to error; as he had not an opportunity of examining, at his leisure, into their habits and manners in their retirement. He accused them of forming a kind of matrimonial society; in which ten or twelve persons had a community of wives, who were as near in consanguinity as father, son, and brother; and from this unnatural and incestuous intercourse, he has represented the offspring as belonging to him, to whom the women were married. He might ground this accusation upon no better authority, than by slightly observing, that the family all slept in the same room. Their houses consisted of but one apartment; and in the middle of it, in cold weather,¹ they lighted a fire, and the whole family slept on the ground round it, on moss or rushes.

The Britons, like the Celtic nations, were addicted to sloth; and they were as fond of intoxicating liquors as the continental Gauls. It was war and the chace which roused them from their indolence; and when they laid down their weapons, they naturally sunk into their habitual inactivity; and they either rioted in excess, or wasted their time in listless ease.

From this confined sketch of the habits and arts of the ancient inhabitants of Dover, we may form a general idea of the skill, and the spirit of the people, which Julius Cæsar had to contend with, when his fleet anchored in the bay, where the town has since been built. The Romans used Dover as a port, from their first settlement in Britain, and they had a road leading from Eastbrook-gate to Canterbury; yet, if we admit what they built on the castle hill, and in the town, the scanty records of history will afford us but little information, of what they did in this valley, from the arrival of Julius

¹ Cæs. Com. lib. 4, c. 23.

Cæsar, to the reign of Diocletian. Prior to the time of this Emperor, the hardy and adventurous pirates of the north had frequently infested the narrow seas; and in their expeditions towards the south, they plundered the inhabitants on the coast,¹ on both sides of the channel. As this was distressing the friends and allies of the Romans, they found it necessary to send a fleet, to check their ravages, and C. Carasius was ordered to Britain for that service. He soon discovered, that with a little management, he could amass wealth in his new employment; and he adopted a plan to enrich himself, at the expence of the friends of the Roman republic. When the pirates were sailing towards the south, in search of pillage, Carasius suffered them to pass unmolested, that he might plunder them of their booty on their return. This practice encouraged the northern pirates to encrease their depredatory visits, and they harrassed the inhabitants on the coast of Germany and Gaul, and kept them in continual alarm; and in the reign of Constantine the Great, that Emperor found it necessary to send into Britain, and into other provinces of the extensive dominions of the republic, several military officers called Counts,² with a certain number of men under them. These officers were known by the title of *Comites Augustales*, as early as the days of Augustus Cæsar. They attended at court, and they were the companions of the Emperors. Those who stood the highest in royal favour, were advanced to the most honourable stations. Some were appointed to be the governors of provinces, and others the commanders of towns and castles. An officer of this rank was sent by Constantine the Great, with a fleet, to clear the German ocean, and the British seas, of the northern pirates, and to guard the coast on each side of the channel, from Denmark to Gaul. This extent of coast was included under the name of the Saxon Shore; and the officer who commanded in this extensive district, was called the Count, and he fixed his chief residence in Britain.

¹ Treatise on Marine Laws, p. 39.

² Gibbon's Roman Hist.

It will be wandering too far beyond the limits of a local history, to inquire, whether the Saxon Shore extended to both sides of the channel; for if it was confined to the continent, the maritime Count came with his fleet to our coast. Experience soon taught him the necessity of seeking safe harbours, where he might find provisions for his fleet, and a shelter from storms, and at the same time conveniently situated to annoy the enemy. He fixed on the nine following stations, which were called Roman Ports; and they were used as such, until their fleet was withdrawn from our island.

1. The first place, towards the north, was *Branodonium*,¹ now called Bremchester, and they there stationed a detachment of the Dalmatian Horse.

2. A part of the Stabesian horse was placed at *Gariannoneum*, now called Boroughbridge, situated a little towards the south of the first port.

3. At *Othona*, or *Ithancester*, in Essex, they placed a company of the Fortenses. This was probably near Brithlinsea, as that place still continues annexed to the port of Sandwich.

4. On the north side of the county of Kent, at *Regulbium*, now Reculver, there was a fortress of considerable strength, at the entrance of the great estuary, which at that time separated the Isle of Thanet from East Kent. A military tribune, with a cohort of Valentians, defended this castle.

5. *Rutupia*, or Richborough, was another strong castle, at the entrance of the same estuary, near Sandwich. A præpositus of the second legion Augusta, with a cohort, were fixed there, to guard the coast in that neighbourhood.

6. *Dubris*, or Dover, was the next port to the southward; and a præpositus, with a detachment of the Turgians, were at this place.

¹ *Notitia Imperii Brit.*

7. *Lemanis*, or Lympne, near Hithe, was another large fortification, which was defended by a *præpositus*, and a company of men from Tournay.

8. *Anderida*. Some have placed this port in Kent, and others in Sussex, and it was probably near the banks of the Rother. It was a place of strength; and a *præpositus*, with a detachment of the Abulsi, were fixed there.

9. *Adumus*, or Portsmouth, had a *præpositus*, and a certain number of men, to defend it. The whole of the infantry amounted to two thousand two hundred, and two hundred horsemen.

The maritime officer, who commanded in this extensive district, had for his ensign a figure, representing an island with nine towns, upon the cover of a book which contained his instructions, and represented the ports within his jurisdiction.¹

This plan of attacking the northern pirates upon their own element, and having soldiers on the coast ready to oppose them, if they attempted to land, during the absence of the fleet, effectually secured the inhabitants, until towards the close of the Roman power in Britain.

In the reign of Valentinian, it was found necessary to strengthen the garrisons on the Kentish coast, and the *legio Secunda Augusta*,² which had long been quartered at Isca-Silurum, and Caer-Leon, was removed to the fortresses in Kent. Theodosius, father of Theodosius the Great, ordered them to Rutupia, between the years of Christ 364, and 367; and detachments were sent from thence, to strengthen the different places on the coast. The first cohort was stationed at Dover, and at this place they had their head quarters.³ They ranked high in valour and fidelity, and they claimed the post of honour, and the keeping of the eagle.

¹ Horsley's Brit. lib. 2, c. 2.

² Tac. de Vit. Agric. lib. 3, c. 15.—Notitia, c. 3 and 8. ³ Gibbon's Hist. vol. 1, p. 20.

This cohort was upwards of eleven hundred strong; and they built a bath, near the stream of fresh water, in the valley at Dover; and by the appearance of the fragments which have remained, during the lapse of so many ages, there is reason to conjecture, that the edifice was raised with materials taken from a more ancient structure, by the quantity of tophus laid in the foundations of the walls. The use of this petrefaction was well known to the Roman masons, and it has often been found in the ancient buildings near Rome. If the tophus was imported by Aulus Plautius, at the time of building the octagon tower in the castle, it is then evident, that the Romans had erected some edifices in the valley, on their first forming a settlement here.

The bath originally covered a considerable part of the scite of the west end of St. Mary's church, and the church yard; but the few remains which time had left us, have all been nearly destroyed within the last fifty years, for the purposes of interring the dead.

From the several parts of the foundations of this ancient structure, which I have seen with much labour demolished at different times, there appeared to have been four rooms upon the ground floor.

Mountfaucon¹ describes the baths of the Romans, as containing the hypocaustum, the balneum, the concamerata, the sudatorium, the tepidarium, and the frigidarium.

The hypocaustum was a *souterrain*, or a furnace, under the sudatorium, with flues in the walls, to convey the fire round the room, and to heat the water for the baths. The floor of the sudatorium was supported with rhomboidal pilasters of tiles, twenty inches high, and nine inches on the sides, with a space of fifteen inches between each pilaster, for a free circulation of heat under the floor. The pilasters were placed in rows, and upon them were laid tiles, made of fine clay, of a reddish colour, two inches thick, twenty-two inches long, and six-

¹ Montf. Antiq. vol. 3, p. 129.

teen inches the mean width, for their ends were unequal.' Upon this course of tiles was spread a strong cement, four inches thick, in which were pieces of bruised tiles, which gave the mortar a reddish tint. This formed the floor of the sudatorium. The pilasters and floor of the *souterrain*, when I saw them opened, were covered with ashes, wood-coal, and soot.

In the wall of the sudatorium, and about twenty inches above the floor, there was a course of tiles, of a yellow cast, laid in mortar, nearly as hard as Portland stone. The tiles were made exactly as wide as the thickness of the wall, and folded down on each side of it, which rendered it impossible for them to slip,¹ or move from the place where they were first laid. Upon this course of tiles, there were placed in the wall a row of funnel bricks, and they formed a communication² with another row, in the wall of the hypocaustum, and they were cramped together with iron bands. The size of this room has not been traced.

The next apartment was probably the balneum, as there were ducts, which seem to have been designed for the conveyance of water. The floor was paved with yellow tiles.

The next apartment might have been the tepidarium; for I found in the angle funnel bricks, placed in an oblique direction, reaching from the bottom to the top of the ruin; and they were evidently for the conveyance of heat. One side of this apartment measured twenty-five feet; the lengths of the other sides have not been discovered.

The remaining room I name the frigidarium; but the dimensions of it have not been traced. There was a narrow passage leading between the balneum and the tepidarium, to the other rooms.

Those who went to bathe, first entered the frigidarium, where they undressed. They then went into the tepidarium, where they stayed some time; and from thence to the sudatorium, and then to the bath. Those who preferred the cold bath, did not go to the sudatorium.

¹ Plate 1, fig. 1.

² Fig. 2,

³ Fig. 3.

Several tiles, of a very peculiar form, were taken out of one of the walls.¹ They were nineteen inches long, and about fifteen inches the mean width. They were laid with their ends reversed, in a thick bed of mortar, and the projecting parts fitted in the spaces left to receive them, that it was impossible for them to slip, and they secured the wall against any partial settlement. On the tiles which supported the floor of the sudatorium, were stamped four letters, (C J B R) which may be read *Cohors Prima Britannica*. This legion was raised by Augustus,² and sent from Germany into Britain, under the command of Vespasian, A. D. 43. It continued in this island, until the Romans finally left it; and it acquired the name of *Britannica*, and had a large share in most of the great actions which were gained here by the Romans. The remaining figures, represented in the plate, were found in the rubbish.³

By the inscription on the tiles, it appears that the bath was built by the Britannic legion, after it was removed to the coast of Kent, and before the final departure of the Romans from this kingdom; and it may be therefore considered, as one of the last edifices raised by them in this valley. A small part of the ruins are still remaining under ground, after a lapse of fourteen hundred years.

When the proud conquerors of the world were obliged to withdraw their fleets and their armies from Britain, to defend their allies against the attacks of the northern barbarians, they left the natives refined in their manners; but it may be questioned, whether they had qualified them for legislators or generals; or taught them to use their unexpected freedom, to secure their own peace and safety, against domestic contentions, and foreign enemies. The competitors for power, in a nation left without a head, or any person with authority to direct and enforce obedience, soon divided the people into different parties which

¹ Plate 1, fig. 4.

² Gibbon's Roman Hist. vol. 6, p. 286, 8vo. edit.

³ Plate 1, figures 5 and 6.

opposed each other, and exhausted that strength, which ought to have been united against the common enemy. The Picts and the Scots, taking advantage of their civil dissensions, made frequent predatory visits on the coast; and the Britons were obliged to purchase their liberty, or submit to the power of a merciless foe. They were at last so reduced by their contentions, and the contributions which were raised by piratical parties, that they were compelled by necessity to adopt a plan, which finally proved fatal to their liberty, and was the source of a long and bloody war.

In turning over the few pages of this remote period of our history, the cautious enquirer will find but little to collect, and that little frequently perplexed with fable and uncertainty.

If we except the invectives of Gildas, and the extracts which Bede made from him, and reduced to some chronological order, and the imitations of Ninnias, with the fictions of Jeffery of Monmouth, we shall have but few remains for any local Anglo-Saxon history, to guide us through the gloom of that long night of ignorance which overspread our island.

According to the popular story, about forty years after the dissolution of the Roman government in Britain, Vortigern obtained the supreme command; and his historians have branded him with the epithets of a weak, and a wicked prince; doubting the fidelity of his subjects, who were afraid of his tyranny, and both of them equally dreaded their common foe. When pressed with difficulties, and unable to defend themselves, they were driven by fear to assemble in council, where they unanimously agreed, to apply for help to the robust warriors of Saxony, whose muscles were braced by their rigorous climate; and who were habitually bold, by being, from their infancy, constantly inured to war. When the messengers, who were sent on this important errand, had delivered their pathetic orations to the Saxons, assembled in council, they required time to consult their wise men, that they might inform them what was written in the volume of their future

destiny. They were desirous of knowing, whether their undertaking would be successful, before they embarked on such an hazardous enterprize.

The answer they received being flattering to their wishes, Hengist and Horsa, according to the general, but perhaps suspicious, narrative of our historians, embarked with their men on board three vessels ; and as they were not at that time very large, they could not have had any considerable force.

There is another account, which mentions the arrival of Hengist and Horsa, with their small band, on the British coast, as exiles from their native shores. They said, that in obedience to a domestic law, in case of a superfluity of population,¹ the youths were obliged to decide by lot who should seek a new settlement, and that the lot had fallen on them.

Whether the Saxons were invited, or compelled by necessity, to quit their country, they arrived on the south side of Thanet, which was allotted them by the natives for their residence, and there they liberally supplied them with provisions. The flattering reception which they met with, induced the Saxon chiefs to wish for a reinforcement of their countrymen, to secure themselves in their new situation, at such a distance from their native shore. The report they sent back of their flattering prospects, induced, in a course of time, five thousand warriors, and their families, to quit their gloomy forests, for a more temperate and fruitful climate. It is probable, that this embarkation consisted chiefly of Jutes, as that people fought under the banner of Hengist.

The crafty barbarian, finding his situation tenable, with the reinforcement he had received, was desirous of making it permanent ; and he proposed the having a colony of his countrymen, in the neighbour-

¹ Turner's Anglo-Saxon Hist. vol. I., p. 150, and the authors mentioned by him.

hood of the Picts. This produced a third detachment, more numerous than the other two, which settled in the north of England.

Vortigern and his people were sensible of their danger, when it was too late to prevent the evil ; and their complaints soon raised jealousies, and jealousies war. Hengist led on the Jutes to glory and conquest, and they fixed the first independent kingdom in Kent. In the hands of the Saxons, victory was dreadful ; ruined buildings, and heaps of human bones, marked their steps. In this contest, the edifices raised by the Romans, in the valley of Dover, were levelled with the ground, and remained a ruined heap for some time. The arts, the religion, the laws, and the language, which had been so carefully planted by the Romans, were all rooted up by their barbarian successors. The scanty information, which Gildas has collected from foreign writers, is of but little use, in guiding us to the local knowledge of a single town ; but we are informed, that if Hengist imitated the Germans in building their houses, they were not placed adjoining to each other, to form streets.¹ The robust warriors of Saxony, while contending with the Britons for victory, were contented with a cave in the side of the hill, or a sodded hut, on the bank of a stream of fresh water. It is very probable, that Dover remained a ruined heap, after Hengist demolished the Roman buildings, until Alfred encouraged his people to collect themselves into bodies, to defend their own habitations, which was the means of giving energy and strength to the people ; and from that time, a town rose again by degrees to importance, and political consequence in the state.

There was a gild, or social confederation, of several of the inhabitants of Dover, for the purpose of defence, and for the security of their commerce, in the times of some of the last of our Saxon Kings. The *gihalla*, or the guildhall of the burgesses, is mentioned in the Doomsday Book. It was this union, which enabled them to provide

¹ Tacit. de Morib. Germ.

a certain number of ships for the King's service, upon any particular emergency ; and for this they procured a charter of privileges and emancipation, under Edward the Confessor, on the condition, that they performed this part of the contract. When the King's messengers arrived, they were to transport their horses, for threepence each in winter, and twopence in the summer.

Earl Godwin was their patron, and he received part of the rental of the town, but the burgesses were free from all forfeitures. Even under this state of feudal servitude, if their stipulated burdens were sometimes heavy, they were desirable, when compared with a condition of vassalage. In the emancipated burghs, we may trace the first rude outline of the free part of the community ; and if they were not totally discharged from their feudal masters, nor actually freeholders, yet they had made a considerable progress towards attaining the desirable object.

When the kingdom was divided into districts by Alfred, Dover was included in the bailiwick of Stouting, in the lath of St. Augustine, and about seventy-two miles from London, on the extremity of the county of Kent, and opposite to the French coast.

CHAP. II.

The history of Dover, from the Norman conquest. The name whence derived. Surrendered to William the First. Doomsday Book description of the town. The King's bad policy. Confederacy against him. The town fortified with a wall. Names of the gates. Of the parishes and wards. Dover visited by persons of distinction. Behaviour of the Barons of the Cinque Ports. The town plundered by the French. The number of houses and ships in the port. Landing places, and parishes, members of Dover. Land-tax how paid. New division into wards. Present state.

As the Saxons rejected the Roman name of *Dubris*, and called it *Dofra*, our antiquaries have searched for this appellation in the British and northern languages. Lambard, and others, have supposed that it came from *Dufir*, a word signifying water; or from *Dufirba*, or high and sharp rocks hanging over the sea. If we adopt the Welch word for water, the name seems to be of British origin; but the orthography having varied, in a course of time, with the pronunciation, it has been written *Dover*, and now *Dover*.

The annual rental of this town, in the reign of Edward the Confessor, under its feudal vassalage, was valued at eighteen pounds; of which the King took two-thirds of one half;¹ Earl Godwin one-third of the moiety; and the canons of St. Martin the remainder.

When William the First took possession of Dover, the town had been lately destroyed by fire, and the rental could not, at that time, be accurately ascertained; but in the eighteenth year of the Conqueror's

¹ Doomsday Book.

reign, their burden was considerably increased. It was then computed at forty pounds; but by the return of the King's bailiff, it amounted to fifty-four. He paid to the King, in oras of the value of twenty pence each, twenty-four pounds; and to Odo, Earl of Kent, and Warden of the Cinque Ports, thirty pounds, by tale.

There appears to be a great uncertainty, whether the ancient ora was a coin, or only money of account; and whether the reckoning of money by marks and oras,¹ was practised in England prior to the settlement of the Danes. The ora and the solidas, seem to have been synonymous terms, in the mammillary estimates of the Gothic states on the Baltic. As a weight, it was used as the twelfth part of a mammillary pound, and the fifteenth of a commercial one; as a coin, it was an aureus, and its value was from fifteen to twenty pence, according to the variations of the standard.

The King had lost the custom of twenty-nine houses in the town.
Robert of Romney² had two of them.

Ralph Curbspine, or Crookthorn, three.

William, son of Tedal, one.

William, son of Oger, one.

William, son of Tedol and Robert Niger, six,

William, son of Jeffery, three; but one of them was the guild-hall of the burgesses.

Hugh Montfort one.

Durand one.

Ralph Columbels one.

Wadard six.

The son of Madbert one.

These houses had the bishop of Baieaux for their protector.

¹ Laws of Canute.—Nashe's Worcester, p. 147.—Clark on Coins.—Encyclop. Brit. *Ora*.

² Doomsday Book.

The messuage claimed by Ralph Columbels, had been the property of an outlawed person ; but it was settled, that the lands should belong to the King, and that Ralph should occupy the premises.

Humphrey, the lame man, had one mansion, which was half of it a royal forfeiture.

Roger of Asterham built a house over the water, where there never had been one erected, and there he collected the King's customs.

Hubert, the grandson of John, had permission, from the bishop of Baieaux, to erect a mill near the entrance into the haven, which was found very prejudicial to the vessels passing and repassing from the harbour, and it was an injury to the King and his subjects.

William, by the general survey, had acquired a competent knowledge of the strength and revenue of his kingdom ; but he did not gain from it the art of governing his people, by obtaining their affections, and securing his own safety. His rigorous treatment of his English subjects, considerably weakened their attachment, and he was in a continual alarm for fear of their rising ; and he dreaded the assistance they might procure from the neighbouring states. His apprehensions were very far from being groundless ; for in the year 1085, he was threatened with an invasion by the Danes, and he had sufficient reason to conclude, that his English subjects would join them, as many of them had fled from his tyranny. Robert, Earl of Flanders, was in the conspiracy ; and it was settled to provide six hundred sail of ships, to transport the troops. As matters were growing serious, the King found it would be prudent, to fortify his towns and castles on the coast ; and having seized the numerous estates, and the immense wealth, of the bishop of Baieaux, he was enabled to put his plan into execution.

Several authors have supposed, upon very slender authority, that Dover was secured with a wall by the Romans ; but while their fleet commanded on the sea, and their legions defended the coast, such artificial security was unnecessary. It was not until towards the close

of the reign of William the First, that Dover was defended with a wall, gates, and towers, and some of their foundations were laid with Caen stone from Normandy. From an old plan of the town, taken in the reign of Queen Elizabeth, we learn the direction of the wall, and the situation of the gates, and the towers, from Eastbrook to Biggin Gate.

Eastbrook Gate.

This gate was built at the foot of the castle hill, near the church of Saint James, at a place called Mansfield's Corner.

Saint Helen's Gate.

From Eastbrook Gate, the town wall was built in a south-west direction, across the present street, to a tower in the curtain, between the first and second gate, which was named Saint Helen's Gate, and stood near a mansion called Copthall, but afterwards Moor's Hall.

The Postern, or Fishers Gate.

So called, by being used by the mariners for bringing their fish into the town. It stood near the old harbour.

Butchery Gate.

This tower is still remaining, and a part of the wall on each side of it.

Severus's Gate.

This gate fronted Bench-street ; and in the apartments over it the customer of the port anciently received the King's dues. Here was a place paved with stone, where the merchants used to meet, about eleven o'clock in the forenoon, to transact business, and in a course of time it was called Pennyless Bench.

The Corporation claimed a right to the town wall, gates, and towers ; and when the customer removed his situation, his apartments were converted into a prison.

After this gate was taken down, a platform was made for three guns, and it was called the Three Gun Battery. It continued in this

state until the year 1800; when several of the inhabitants obtained a grant from the Corporation of the ground and materials, on the condition, that they built a bridge over the pent, to open a communication for carriages between the town and the rope-walk, which was done by subscription.

As there was a considerable distance between this and Snare, or Pier Gate, there was a square tower in the curtain between them; but there are no traces of them left.

Snare, or Pier Gate.

This gate stood near the foot of the cliff, and crossed the street now leading down to the pier. There is an inscription which informs us, that this gate was taken down A. D. 1588; and the stone is the boundary between the leasehold and the freehold estates in the town.

Adrian's, or Upwall Gate.

This gate was erected a few yards from the edge of the cliff, above Snare Gate, and it led to the common, and to the hill, on which there was anciently a lighthouse, and a building belonging to the Knights Templars. The walls of the pharos were standing in the reign of Henry the Eighth, but they have since been completely demolished. From the tradition of its fabulous origin, it was called the Devil's Drop. The foundation of the Templars building is yet remaining. The diameter of the circular apartment is twenty-eight feet, and the hall twenty by twenty-four feet. The circular part was ornamented with pilasters; and by the ruins, it appears to have been an elegant building.

On the edge of the cliff, near Adrian's Gate, the Romans had a burying ground. In the year 1797, in clearing away a garden, for the purpose of building, several urns were discovered, and in some of them a few pieces of Roman coins, but their inscriptions were not legible. In the year 1804 several more were found.

Common, or Cow Gate.

This gate received its name by leading to the common. It was taken down, by order of the Corporation, A. D. 1776.

The foundations of the wall between this and Adrian's Gate, may still be traced at some places.

Saint Martin's, or Monks Gate,

Was a private gate in the wall, which bounded the precincts of the collegiate church, and was for the use of the canons.

Biggin Gate.

This was the last gate, and it was situated at the end of Biggin Street, and was taken down in the year 1752.

It is said by some of our antiquaries, that there was an habitation over this gate, for a watchman to make signals in times of danger. In Leland's time, the wall was not to be traced beyond the church-yard.

The town was anciently divided into seven parishes, and twenty-one wards.

The names of the parishes were,

St. Martin the Great.	St. Peter.
St. Martin the Less.	St. Nicholas.
St. John.	St. James.
St. Mary.	

The ancient wards.

1 Charlton.	8 Rolvenden.
2 Biggin.	9 Bell.
3 St. Mary.	10 St. George.
4 Canon.	11 St. Nicholas.
5 Morian.	12 Ore.
6 Shingle.	13 Wolves.
7 Nankin, or Mankin.	14 Horsepool.

- | | |
|-------------|---------------|
| 15 Bumaris. | 19 Seagate. |
| 16 Ox. | 20 Snaregate. |
| 17 Ballast. | 21 Adrian's. |
| 18 Parks. | |

It was the duty of the wardman¹ to go his round, and observe if every person was at his post in the night. Some were placed in the towers, to see if any enemy, or piratical party, were on the coast. Others paraded the streets, to apprehend disorderly persons, and to take care, that every proper precaution was used to prevent fires. As their houses were chiefly built with wood, a fire was very much dreaded, for it frequently consumed nearly a whole town. Every inhabitant was therefore required, to have a tub of water at his door during the night, under a fine of twenty pence.

If any person neglected to appear at the night watches, either by himself or his substitute, he was to have his goods distrained by the serjeant, for the fine of twenty-one pence; and the distress was to be left with the mayor, until the fine was paid. Each of the wards, upon receiving a previous notice of forty days, were to prepare their ships for the King's service, with the assistance of their members; and they were to have vessels ready to sail to the continent with messengers, ambassadors, and other persons, going on the King's business.

Dover being the nearest port to Boulogne, which was the principal harbour in Picardy, several persons of eminence embarked at this place soon after the Norman Conquest; and there were some transactions worthy of note, which happened in succeeding reigns.

Anselm,² archbishop of Canterbury, in the reign of William Rufus, displeased the King, by asking permission to visit Rome, to fetch his pall, and he was ordered to quit the kingdom. It is said, that he laid aside his archiepiscopal robes, and assumed the habit of a pil-

¹ Mr. Boys' Col.

² Brady's Hist. vol. I, p. 234.

grim. While he was waiting at Dover for a fair wind, the King sent William Warlewaste to search his baggage, who seized all his property, and he was sent to the continent with his scrip and staff. While the archbishop was at Lyons, Adela, the countess of Blois,¹ was attacked with a very severe illness, and he visited her. The lady, upon her recovery, considered herself under such obligations to him, for his attention, that she wrote to her brother, King Henry, to restore him to the see of Canterbury.

Her petition was made at a favourable moment; and immediately after the coronation of the King, a messenger was dispatched to Anselm, to request that he would return, with all possible expedition; and the King, in a letter addressed to him, added his prayers for a safe passage.

Henry was in love with Maude, the daughter of Malcolm, King of Scotland; but as she had been seen veiled in a nunnery, they had great doubts whether she was not dedicated to God; and the King was desirous of the archbishop's opinion upon the subject.

King Henry² met the Earl of Flanders at Dover, A.D. 1101, to sign a treaty between them.

Richard the First, in the year 1189, embarked at this port, with one hundred sail of ships, and eighty gallies; and he landed the same evening at Gravlines, in his way to the Holy Land.

In the turbulent reign of Henry the Third, the inhabitants of Dover, and of the Cinque Ports, joined the discontented barons, and fitted out their fleet to guard the coast, to prevent any foreign states landing troops in England, to assist the King. They justified their conduct by saying, whatever was for the good of the nation, must also be so for the Sovereign of it.

A similar system of politics was adopted by them, A.D. 1266 when they joined Simon de Montfort, the Earl of Leicester, and hi

¹ Godwin's Lives of the Bishops.

² Henry's Hist. of England.—Holinshead's Chron.—Haverley's Annals.

son, and gave them the command of their fleet. With their assistance they plundered the merchant ships of every nation they met with in the channel; and in the month of November, they burnt Portsmouth, to revenge themselves of the King, for hanging some of their barons. They continued their piratical practices, until it was found absolutely necessary to check them in their audacious proceedings. When prince Edward came against them with a fleet, they prudently submitted, on the condition of having all their privileges confirmed to them.

The town of Winchelsea resisted, but the prince entered it, after losing several men, and took Henry Pethune, their leader, prisoner.

In the year 1293, a dispute happened, between the crews of an English and a French ship, near Bayonne, concerning a spring of fresh water, and a Frenchman was killed in the affray. This quarrel between a few individuals, produced a kind of piratical war; which, though trifling in the beginning, proved bloody in the progress. A small fleet being sent to protect the merchant ships on the coast of Normandy, the French attacked, and took two of them, and hanged the mariners.

The Barons of the Cinque Ports, hearing of this cruel act, sailed with their fleet to the coast of Normandy, in search of the French ships; but not finding them at sea, they entered the mouth of the Seine, and seized several merchant ships, and slew the sailors. They next captured a fleet laden with wine, without any commissions from the King. Both parties seemed determined to revenge the injuries and the insults they had received, and each of them fitted out a considerable fleet; which soon met, and a desperate and bloody engagement was the consequence. The French were entirely defeated; and their King was so much irritated at the loss his subjects had sustained, that he threatened to invade England, and to destroy both the people and the language.

He collected two hundred sail of ships and gallies, and embarked an army, to put his threats into execution. They sailed for the coast of England, and they continued, for several days, hovering and an-

choring near the shore, and sounding and reconnoitering with their gallies. The inhabitants of the port of Hithe, seeing one of their vessels approaching the shore, they quitted their houses, and fled into the country. This encouraged some of the enemy to land, with an intention of plundering the town; but the natives returned in such force, that they killed two hundred and forty of them, and burnt one of their vessels.

The French admiral was determined to revenge this loss, and he sailed immediately for Dover, and landed his men. The inhabitants finding their strength insufficient to defend the town, they retired into the country, and the French plundered both their houses and the priory. In the afternoon they returned, with a strong party; and meeting the French in small detachments, plundering the neighbouring places, they killed about eight hundred of them. The admiral, hearing the cries of his men, who were pursued to the very shore, hurried on board, with what plunder he could carry off, and left his men to provide for their own safety. As the French landed to revenge the loss they sustained at Hithe, they killed several women and children, and a monk, named Thomas. He was, in the opinion of the common people, a person of great sanctity; and his brethren, wishing to repair the loss they had sustained, pretended to work miracles by his influence.

It may be doubted whether Dover was ever very large or populous, in any period, between William the First and Henry the Eighth; for a large portion of the town, inclosed within the wall, was occupied by the buildings of the canons, and the burying ground of the different churches.

By the return of the commissioners appointed, A. D. 1564, to survey the coast, from the port of Hithe to Gravesend, they returned no more than three hundred and fifty eight houses in the town, and twenty-nine of them uninhabited. There were twenty vessels belonging to the port, employed in fishing, and in the coasting trade, and for carrying merchandize, which required three hundred mariners.

The number and tonnage of their vessels.¹

Ships.	Tons.	Ships.	Tons.
1	of	1	of
1	of	1	of
1	of	2	of
1	of	2	of
4	of	2	of
1	of	1	of
1	of	1	of

If the ports kept up a fleet at this time for the service of the nation, it could not be included in this list; but they very soon lost their consequence, after the establishment of the Royal Navy.

Dover claims jurisdiction over four landing places on the coast. The first to the northward is Kingsdown, in the parish of Ringwould. The second Broadstairs; the third Margate; and the fourth Goresend, in the parish of Birchinton. The three last are in the Isle of Thanet. The above four parishes were to raise, with the town of Dover, the sum of £1928 : 13 : 9; and the commissioners named in the land tax bill for the port of Dover, claimed the right of appointing assessors, and fixing the sums each of the parishes were to raise, and of confirming the rate.

In exercising their authority, they laid a large proportion of the burden upon their members, to ease themselves; and this gave rise at first to secret murmurings, and finally to open complaints, and they presented a petition to parliament for redress. The commissioners saw, when it was too late, that they had made an improper use of their power, and they could not deny it. The petition of the inhabitants of the members belonging to Dover, was deemed reasonable; and in the fourth year of the reign of William and Mary, an act was passed, for the three parishes to be a distinct division, and they were

¹ MSS. in Cot. Lib. Julius, B. m. 4. page 95.

to be charged with no more than a proportionable part of the sum to be raised by Dover.

It appears, by the exchequer rolls, that the proportion for the different parishes now stands as follows.

	<i>£.</i>	<i>s.</i>	<i>d.</i>
The town and port of Dover,	364	17	0
The pier,	306	6	0
Margate,	502	16	6
St. Peter,	302	18	3
Birchinton,	349	8	0
Ringwould,	97	8	0

It may still be doubted by some, whether the members of the Cinque Ports were united with them, when they received their first charter of union; yet it will appear, by the charter of Charles the Second, that the members were joined with their respective ports, at a very early period of our history. We are there informed, that the Cinque Ports are, prior to the time known to any one of our ancestors, the ports of Us, and our progenitors, Kings and Queens of England; and the places called Margate, Goresend, St. Peter's, Birchinton, and Ringwould, are, and have been members, beyond all memory.

The members are mentioned in the charter of Edward the Fourth, and were very probably united to them from their first fitting out their fleet; for it is not to be supposed, that the Five Ports, and the two ancient towns, could have done it without some assistance.

Though it was enacted, that the above-mentioned parishes in Thanet should be a distinct district, for raising their proportion of the land tax, assessed on the town and port of Dover, and its members, yet they were continued under their ancient jurisdiction; and were obliged to travel twenty miles, upon any parochial or other business, which required the interference of a justice of the peace.

They being obliged to travel so far upon every trifling occasion, frequently excited them to make attempts to free themselves from

their burdens; but their endeavours proved ineffectual, until the fifty-first year of his present Majesty's reign; when a bill was passed to give them some relief, but it left them nearly in the same situation.

In the preamble to the statute it is said, "That great inconveniences, and many defects of justice, have frequently arisen, and are likely hereafter to arise, to his Majesty's subjects, residing in the parishes within the jurisdiction of the Five Ports, be it therefore enacted, that from and after the fifth day of July, 1811, it shall and may be lawful for his Majesty, and his successors, Kings and Queens of this realm, from time to time, and as often as occasion shall require, to direct a commission, or commissions, to be prepared and issued, under the great seal of the united kingdoms of Great Britain and Ireland, to be directed to certain persons to be named, constituting them to be justices of the peace within, and throughout the liberties of the Cinque Ports, investing them with the same power and authority as doth now, or at any time did, appertain or belong to any mayor, bailiff, or jurat, within and throughout the liberties of the Cinque Ports, any prescription, usage, charter or charters, law or laws, to the contrary in anywise notwithstanding."

Here as much power is given to such persons as are named in the commission, as could with propriety be asked for; but under the proviso in the second section, the authority which is given in the first is taken away, and their power limited to a narrow compass.

It is said, "Provided always, that no person named in any such commission, shall be by this act authorized to grant licences, or certificates for licences, to any victuallers resident within the liberties belonging to any Cinque Port, ancient town, or corporate town; or to act at or in any general or adjourned sessions, to be holden in or for any of the Cinque Ports, two ancient towns, or the corporate towns; or to hear, sit, determine, or vote upon any matter, or to do any act of justice, within the ports of Hastings, Sandwich, Dover,

....

New Romney, or Hith; or to have right, privilege, or immunity, belonging to the said towns."

Such persons as are named in the commission, and duly qualified, may act as justices of the peace in their own houses, although the same may not be situated within the liberties of the Cinque Ports.

The county justices for Essex, and Kent, are authorized to act in Brithlingsea, and Beakesbourne, and to commit to the county gaols; but there is no gaol mentioned in the act, where the justices in Thanet may commit offenders; and the ports seem reluctantly to yield the least power to accommodate their members, and to ease their burdens; excepting at Brithlingsea and Beakesbourne, where they had so many miles to travel for an act of justice.

As the town of Dover, in the reign of Elizabeth, was considerably increasing, it was found expedient to make a new division of the wards, as the old ones did not include the additional buildings.

A list of the present wards in the town of Dover, with their limits.

Charlton.—All Charlton, to the victualling office.

Biggin.—From the end of the town, to Gardiner's Lane.

St. Mary's.—From Gardiner's Lane, to Biggin Gate.

Canon.—From Biggin Gate, including the Market.

Morian.—The street from the Market to Bench Street, and the buildings on the left hand side of Bench Street.

Shingle and Nankins.—St. James's side of the river, to Bean's Corner.

Holvenden and Bulls.—St. James's parish, above Bean's Corner.

St. Nicholas, including St. George.—Cowgate.

Snargate.—All the right hand side of Bench Street, to Snargate.

Hither part of North Pier.—From Spargate, to Robinson's Lane, where the division was made, now Webb's.

Lower part of North Pier.—From Robinson's Lane to the Dock, including over the wall.

Hither part of South Pier.—From the Dock to Vinegar Sluice; and from thence straight across Paradise Pent, through the little alley next Hudson's garden, to Thomas Pascall's.

Lower part of South Pier.—The remainder of the Pier not mentioned.

Since the last division of the town into wards, both the inhabitants and the houses have been increasing considerably ; as may be seen by the returns made to parliament of the baptisms, during the last century, to ascertain the population of the kingdom.

The return of the baptisms made in 1801.

Years.	Males.	Females.	Total.
1700	35	43	78
1710	41	52	93
1720	31	41	72
1730	46	43	89
1740	68	55	123
1750	64	68	132
1760	91	92	183
1770	68	89	157
1780	87	91	178
1781	111	90	201
1782	104	86	187
1783	115	100	215
1784	121	105	226
1785	103	107	210
1786	95	103	198
1787	133	108	241
1788	110	92	202
1789	131	111	242
1790	135	109	244
1791	100	110	210
1792	109	126	235
1793	113	136	249

Years.	Males.	Females.	Total.
1794	—	146	—
1795	—	122	—
1796	—	139	—
1797	—	130	—
1798	—	145	—
1799	—	149	—
1800	—	158	—
		105	251
		138	260
		145	284
		152	282
		158	303
		168	317
		166	324

If it be admitted, that the number of males and females baptized, in the foregoing table, be a fair representation of the intermediate years; then the births of the males and females were nearly equal, in the parish of St. Mary, during the last century. It also appears, that there has been a considerable increase in the baptisms, in the space of one hundred years; but the disproportion may not be so great as represented in the table, as there were several families of dissenters in the town, during the first part of the time, who regularly conformed to the church, as they procured places under government.

If there be any truth in the rules which have been given for ascertaining the number of inhabitants of a town, by the births, or the number of the houses, we shall find the returns made by the parish officers, for ascertaining the population, very defective for the town and port of Dover, and its members, as may be seen by inspection in the following table.

The Table.

The Names of the Parishes.	The Number of Inhabitants returned A.D. 1800.	The Number of Inhabitants returned A.D. 1811.	The increased difference. Persons employed in Agriculture, A.D. 1800.	The increased difference. Persons employed in Agriculture, A.D. 1811.	The increased difference. Persons employed in Trade, A.D. 1800.	The increased difference. Persons employed in Trade, A.D. 1811.	All others, not employed in Trade, etc. A.D. 1800.	All others, not employed in Trade, etc. A.D. 1811.	Increased difference. Males returned, A.D. 1800.	Females returned, A.D. 1800.	Increased difference of Females, A.D. 1800.	Decreased difference of Females, A.D. 1811.	Males returned, A.D. 1811.	Females returned, A.D. 1811.	Increased difference of Females, A.D. 1800.	Decreased difference of Females, A.D. 1811.	The Number of Persons in a Family, A.D. 1800.	The Number of Persons in a Family, A.D. 1811.	The Number of Persons in a Family, A.D. 1811.	
Margate, -----	176601261360	315 787 172 8731660	78735783801325	21912275 384	27823344	562	4, 34, 3													
Birchington, -----	537 641 107	276 418142	33 128 85 278 102	176 278 259	19 292 323	390	5, 37 4, 5													
St. Peter's, -----	15681943 375	253 664 411	139 202 1531176 822	354 754 814 60	9131030 117	117	4, 24, 4													
Ringwould -----	293 399 106	48 207 159	9 192 163 236 50	186 158 135	23 290 173	173	534, 25, 6													
St. James, Dover, 13271440	113 16	7 9 134 308	17411771103	74 567 760 193	593 847	847	254 3, 7 3, 9													
St. Mary, ditto, 575776371877	28 201	173 1051	385928084778 3494	1284293528622	11333554239	844	3, 34, 2													

Remarks.—It appears, by the first column of the table, that the total of the population, in the year 1800, for the parish of St. Mary the Virgin, in Dover, amounted to 5757. The baptisms in that year were 324; which being multiplied according to Sir Frederick Eden's rule, by 27,75, will produce 8891, and the difference 3124, which is more than half the original return. If we use his multiplier, 31,5, for large towns, we shall have for the population 10,206; and the difference will be 4489, which shews that there is a considerable error somewhere.

In the second return for 1811, it may be seen in the table, that the population amounted to 7637; and if the births, 360 for that year, be multiplied as above mentioned, we shall have in the first instance 9990, and in the second 11,497. These are convincing proofs, that further examination of the returns ought to be made, before any conclusions are publicly circulated, in favor of any rapid increase of population.

Although it appears in the table, that in the town of Margate there is an increase of 472 labourers in the field, between the two returns; and in St. Peter's 411, which is almost double their former return; and at Ringwould 159; yet I doubt whether they have cultivated more land in either of the parishes, than they did in the year 1800; and it can hardly be supposed, when the high wages are considered, that the farmers would submit to what appears unnecessary labour.

Under the head trade, handicraft, and manufacturers, they have increased at Margate 787; at St. Peter's 153; at St. James's, Dover, 174; at Ringwould 188; and at St. Mary the Virgin, in Dover, 2808; yet it may be difficult to shew how this great difference has happened. At Ringwould, they have returned more under the three different heads mentioned in the table, than they have males in the parish; and as there has not been any manufactory established there since the year 1800, to employ the women and the children, it remains to be explained, why so many additional hands are required in trade in so short a time.

Under the third head of persons employed in trade, there is a decrease of 2075 in five of the parishes ; but even this will not correct the errors which appear in one, or both of the returns.

The table further shews, that in the year 1800, the males exceeded the females, in the six parishes, 248 ; but in the year 1811, the females were increased upon the males 1557, in a small district, and a short space of time.

If we admit the returns to be correct, the computing five in a family in villages, and five and a half in large towns, will be considerably too high ; for it may be seen by the table, that they did not average more than 4,1 by the first return, nor more than 4,5 by the second ; and we appear still to be at a loss how to ascertain the population by the baptisms ; and it will be necessary to make further trials of different districts, to see how they correspond with the rules given us by Sir Frederick Eden.

There is no information to be gained by comparing the baptisms with the burials in this parish, as many families inter their dead in the burial ground of the neighbouring villages ; but it appears by the register of burials, there were 291 more males than females died during the last century.

By dividing the hundred years into three parts, the number of burials, in the returns to parliament, will stand as follows.

By taking every tenth year, from 1700 to 1780 inclusive, there were interred in the parish of St. Mary, 428 males, and 417 females ; difference 11.—From 1780 to 1790 inclusive, 629 males, and 574 females ; difference 49.—From 1790 to 1800 inclusive, 803 males, and 572 females ; difference 231.

The society established for the benefit of widows, has felt the effects of this disproportion ; for in the course of forty years, they have had upwards of fifty widows on their list, without losing many of their members by accidental death, or the chance of war.

If the number of the burials be divided, according to the seasons of the year, it will be found, that the autumnal months were the most fatal, and there were the fewest burials in the summer; but they were more equal than might have been expected.

	Number of Funerals.	Total.
<i>Winter Quarter.</i>		
January,	304	
February,	239	859
March,	316	
<i>Spring Quarter.</i>		
April,	292	
May,	304	849
June,	253	
<i>Summer Quarter.</i>		
July,	248	
August,	253	793
September,	292	
<i>Autumn Quarter.</i>		
October,	301	
November,	307	888
December,	280	

The overseers returned only eighty-eight persons in this parish employed in agriculture. If the usual artificers and tradesmen to be met with in a populous town, and the society of pilots, sixty-four in number, be deducted, the remainder of the inhabitants chiefly depend upon the various resources to be met with on the water for their subsistence.

Fishing, which was once a source of wealth to our ancestors, has for many years been much neglected on this coast; and there is but little probability of its being revived again, to that extent it was, when the Barons of the Cinque Ports were of such great importance in the nation.

Great improvements have been made at this place, in building vessels called cutters; and if the mariners had been left to exercise their own skill in planning, rigging, and sailing these vessels, to escape from the revenue cutters, it is impossible to say what further experience would have pointed out to them.

This branch of business employed a great many hands, as they built for the mariners to the westward; but one statute which passed during his present Majesty's reign, to favor the revenue cutters, destroyed all competition. It compelled every master of a cutter, who was not in government service, to have the bowsprit fixed down to the deck; and this gave such a decided advantage in sailing to the revenue officers, that further attempts were rendered useless.

Dover may be said to be a healthy situation, as it is built chiefly upon chalk, or pebbles, and there is a rapid descent, to carry off all impurities to the sea. The town is sheltered by the high hills, from the easterly and northerly winds, and it is much warmer in winter than some other towns on the coast. There are diseases, which appear at times as accidental visitants. The autumnal putrid cases, which sometimes follow dry and hot seasons, may be occasioned by the noxious exhalations rising from the stagnant ditches in Romney marsh. The mismata, rising from their poisonous source, between two and three hundred feet perpendicularly in the atmosphere, are there attracted by the long ridge of hills on the border of the marsh, before they are spread over the country; and it is sometimes three weeks, or more, according to the current of the air, before the putrid effluvia reach this place.

If an accurate statement could be obtained, of the manners and habits of the inhabitants, and the diseases prevalent in different towns, with the nature of the soil, the marshes, and the stagnant water in their neighbourhood, and for thirty miles round them, the causes of several diseases might be probably discovered; and a wet or a dry season, might be a kind of index when to expect them, and preventives might be used to check their malignity.

An act of parliament was obtained, A. D. 1778, for new paving, watching, and lighting the town, and several improvements have been made; but the fund was unequal to the expence, for doing all that was necessary. In the year 1810, another act was obtained, which doubled the taxes upon the inhabitants.

CHAP. III.

The parish of St. Mary, length, breadth, and boundaries. Maison Dieu, by whom founded. A house for pilgrims. The patronage. Church built. House visited by persons of distinction. Public business transacted in it. Grants of lands. Donations by wills. Value at the suppression. Survey. Increased rents. Present state of the premises.

The parish of St. Mary the Virgin is nearly a mile and a quarter in length, and it includes, within its boundaries, the scites of the collegiate, and five of the ancient churches, the Maison Dieu, a part of the priory, and the harbour.

This parish is bounded on the north, from the Maison Dieu to the pent, by the river, which rises from two sources within four miles of the town; and in this short course, turns twelve paper and corn mills, and one oil mill; and the business done on the stream is very considerable.

The middle of the same river, flowing through the pent, to the bason, is the boundary on the south-east; and the remaining part, round the harbour, has the limits fixed by the sea.

The high perpendicular cliff is the boundary on the west. All the land in this parish used for pasture and gardens, is very inconsiderable. Ground is much wanted for building, and various other purposes, and especially near the sea.

The Maison Dieu,¹ or the hospital of St. Mary,

This hospital was erected in the reign of King John, by Hubert de Burgh, Earl of Kent, Lord chief justice of England, and Constable of Dover Castle. The house was situated at the end of Biggin ward, and it was intended by the founder for the accommodation of pilgrims, who might occasionally visit Dover, on their going to, or coming from the continent. Such a house seemed necessary, as the canons were, at that time, the only persons, to whom they could apply for refreshment and lodging.

As the house was intended for the accommodation of temporary visitors, he did not build them a church; but he placed there several brethren, and sisters, with a master to govern them, and they were enjoined to use hospitality to strangers.

At this early period of our history, an altar, for a priest to say mass for this new community, and their guests, was judged necessary; and it has been said, that two sisters, Agnes and Beatrice, gave lands and tenements, to provide them a priest, to officiate in a chapel, in the church of St. Mary in the town. In an age, when it was thought an indispensable duty to begin every undertaking with prayer, and to conclude it, when successful, with thanksgiving to the Almighty disposer of every event, it was judged very inconvenient for the society, and their visitors, not to have a church adjoining their house.

This was supplied by Henry the Third; but it seems to have been on the condition, that the founder of the house should resign the patronage to him. The King was present at the dedication of the church, A. D. 1227; and at the same time he confirmed the grants of all the lands which had been given to the society. This visit of the King, at the Maison Dieu, has been mistaken for the dedication of the house to God and the Virgin Mary.

¹ MSS. Arch. Cant.—Dugdale, and others.

It is certain, that this hospital was built, and endowed with grants of manors and lands, prior to the building of the church, and the great difference in the stile of the architecture plainly shews it. The few remains of the hospital which are left, prove that the first architect adopted the Saxon plan of diminutive slips in the wall, for the admission of light; while the second introduced large and lofty windows, with sharp pointed arches.

When Hubert de Burgh resigned the patronage of this house to the King, he reserved to the society the right of electing their master upon a vacancy; on the condition, that their patron might negative their choice, and in his absence, the Lord chief justice of England might do the same. If the person nominated was approved of by the King, the archbishop of Canterbury was to licence him without delay. On the death of a master, or if he resigned, the society were to receive the rents, purchase provisions, and pay the bills, until another superior could be appointed; neither was the King's bailiff to sequester any part of their income during the vacancy.

Several persons of distinction have visited the Maison Dieu at different times. King John¹ visited it, A. D. 1213; and he signed precepts, to be sent to the Barons of the Cinque Ports, and to all the bailiffs of the towns on the coast, to take an exact list of all vessels, capable of carrying six horses, and upwards, and to order them to be at Portsmouth on the 24th day of March, without fail.

He also signed precepts to all Earls, Knights, Barons, and military tenants, to appear at Dover on the 21st of April, for the defence of the kingdom, and for the preservation of their lives, and their property. This summons brought together so large a multitude, that they could not provide provisions for them; and all those who did not appear properly armed, were dismissed, and there remained sixty thousand well appointed troops.

¹ Rymer's *Fœd.*

While John was waiting here, and expecting the King of France to land with his army, Pandulphus, the Pope's legate, sent two Knights Templers to the King, to propose a private conference with him. This was accepted, and a meeting was held at the Maison Dieu, in Dover.

John, considering the distracted state of his affairs, found it would be expedient to be reconciled to his clergy. He had expelled the prior of Christ's Church, and his monks, sixty-four in number, on account of the opposition they had made to his nomination of an archbishop, and he filled up their places with monks from St. Augustine's priory. After a banishment of seven years, they were restored to their house, and they received a thousand pounds, to recompence them for the loss they had sustained. He signed his reconciliation at Temple Ewell, on the 13th day of May; and on the 24th day of the same month, he did the same with the archbishop of Canterbury.

Some historians mention, that John did homage to Pandulphus, at the Maison Dieu, in this town; and it was either here, or at Temple Ewell, near this place. The ceremony was performed, with all the humiliating rites, which the feudal Barons required of their tenants. The legate was seated on a throne; and the King being introduced into his presence, he kneeled before him; and lifting up his joined hands, and putting them between the legate's, he swore fealty to the Pope.

"I John, by the grace of God, King of England, and Lord of Ireland, for the expiation of my sins, and of my own free will, and with the advice and consent of my Barons, do give unto the church of Rome, and to Pope Innocent the Third, and to his successors, the kingdoms of England and Ireland, together with all the rights belonging to them, to hold them of the Pope as his vassal; and I will be faithful to God, and the church of Rome, and to the Pope my Lord, and his successors lawfully elected; and I bind myself to pay him a tribute of a thousand marks of silver yearly, viz. seven hundred for the kingdom of England, and three hundred for Ireland."

A part of the money was immediately paid, as an earnest of the subjection, and the crown and scepter were delivered to the legate. The insolent ecclesiastic trampled the money under his feet; and after keeping the ensigns of royalty five days, he returned them to the King, as a favour from the Pope, their common Lord.

Edward the Second, in the 13th year of his reign, came to the abbey of St. Radegond's, near Dover; and in the chapel set apart for him in the chancel, he delivered to William Greenfield, dean of Chichester, his chancellor, the great seal; and, on the Monday following, he came to the Maison Dieu, and sealed several papers on public business.

Edward the Third, in the first year of his reign, embarked at Dover; and his chancellor, William Inge, went to his apartment at the Maison Dieu, and signed letters to the lady of Roger Bigod, the grand marshal of England; to Elizabeth, the countess of Hereford and Essex; to Henry of Lancaster, and several other persons of distinction, requiring them to be at Dover, to receive the King on his return from the continent, with his Queen Isabella, daughter of Philip, the King of France.

Richard the Second, on his way to Dover, issued his precept at Rochester, A.D. 1396, requiring the mayors and bailiffs of the Cinque Ports to make proclamation, in each of their towns, for all persons dealing in provisions, corn, hay, straw, and other necessaries, to be ready to supply him at Calais, during his stay at that place, under such penalties as he might think proper to inflict.

When the King arrived at Dover, he went to the Maison Dieu, and appointed the Regent, and disposed of the great seal; and he then embarked with his uncles, the Dukes of York and Gloucester, and a large train of nobility and gentry, for Calais, to meet the French King.

In the ninth year of the reign of Edward the Second, the master, and the other members of the Maison Dieu, were served with a writ, to shew cause, why they refused to pay escuage for their lands. They

pledged an exemption from military service, by holding them in frank-almoine, and such lands were not subject to escuage, if given by a subject to a religious house,¹ so long as the donor, or his heir, had other lands in the county, on which escuage could be levied; in which case the sheriff was to discharge the feoffer.

Henry the Third, in the eleventh year of his reign, confirmed to the master, and the other members of this house, a tenth of the profits of the imports of Dover; and the year following, the same sum out of the exports, which his bailiff was to pay on the festival of St. Michael.

The same King, in a charter, dated in the eleventh year of his reign, recited, and confirmed, all the donations² made by Simon de Wardune, with the park adjoining, and one hundred acres of land, with their appurtenances, with the services and the acknowledgments of the several tenants.

By the charter, it appears, that William and Thomas le Cupere, and their mother, gave nineteen pence, five hens, and seven eggs.

Jordan, Simon, and Adam Turche, and Thomas Chapel, gave thirteen pence, four hens, and five eggs.

William and Thomas Cupere, gave twenty-four pence, fifteen hens, and seventy-five eggs.

Dalfridus, Reginal, Adam, and Alphage, gave twenty-one pence, four hens, and fifty eggs.

William Burmaghe, and his brethren, gave ninety-five pence, twenty-four hens, and one hundred eggs. The grant of a mill at Hardes was confirmed at the same time.

East Bridge.—Henry the Third gave this manor to Hubert de Burgh, and Margaret his wife; with permission for them to give it to any religious society within two years. They therefore gave it, with

¹ Madox's Hist. Exch. p. 60, 473.—Claus 20 Edw. 1. m. 5, Dorso.

² Dugdale's Monast. vol. 2, p. 423.—Hasted's Hist. of Kent, vol. 2, p. 581.

the advowson of the church, and all the tenants upon the land, to the Maison Dieu, at this place, reserving the knight's fee.

By a rental, taken in the fifth year of the reign of Elizabeth, this society had, prior to their dissolution, 257 acres, 1 rood, and 6 perches; and at Burmarsh, 52 acres, 2 roods, and 6 perches.

Isle of Shepway.—The same King, in the fifteenth year of his reign, confirmed the grant of William, the son of Richard Wriggle-hall, of certain houses and lands, and one hundred shillings yearly, from the manor of *Darlyngham*, which this society held as a gift of Christian Mandeville, countess of Essex.

Coldred manor.—This grant was confirmed by Henry the Third. In the reign of Edward the First, they obtained a charter of free warren, which was, at that time, considered a great privilege.

¹ *River.*—Henry de Essex held the manor of River, A. D. 1163; but he forfeited it to the crown, with other lands, for his cowardly behaviour, in fighting against the Welch.

In the reign of John, this manor was held in three parts. One part was held of the King, as of his Castle of Dover. Another part by the monks of St. Radegond's, which the King had given them in the ninth year of his reign; with the church, and his manor court. Henry the Third, in the nineteenth year of his reign, confirmed to Hubert de Burgh, that part of the manor of River which was in the crown, and he gave it to the Maison Dieu.

Homechild.—This manor was given by Hubert de Burgh to the Maison Dieu, and Henry the Third confirmed the grant. By a survey, taken in the reign of Richard the Second, they had 423 acres, and 23 perches, in this manor. Their liberal benefactor gave them 91 acres

¹ Dugdale, Philpot, Harris, and others.

of land at Ruckings, called *Maison Dieu Brooks*, which the King confirmed, as he did land held by them at Hope and All Saints.

Kingsdown,¹ near *Sittingbourne*.—This manor was given by the same donor. The master of the *Maison Dieu*, in the twentieth year of the reign of Edward the First, claimed free warren there, before the itinerant justices at Canterbury.

Both Philpot, and Harris after him, say, that in the seventeenth year of the reign of Edward the Second, this manor was united to the Knights Hospitalers, and continued annexed to their demesne lands, until the general dissolution of religious houses.

According to a manuscript in the Harlean library,² Sir John Thompson, clerk, master of the *Maison Dieu*, and his brethren, demised, in the twenty-seventh year of the reign of Henry the Eighth, to Christopher Roper, of East Farleigh, their manor of *Kingsdown*, with all their lands and woods, and 5000 of shydewood, (shingle-wood, or billet-wood) to be cut down, and carried away.

In demesne, they reserved to themselves and their successors, the cock-hens, or the fences, and all homage, waifes, and strays, and all court leets and law days held for the said manor; also two tenements, called *Shyngle-Cross*, and *Dangate*. The lease was for twenty-one years, at the yearly rent of eight pounds.

³ This society had lands at Birchington, and Monkton, in Thanet, rented at thirty-three shillings and fourpence yearly, but the donor's name is not known.

Nethermash, contained 60 acres, in the parish of Sholden, with a pasture called *Le Downe*, which belonged to the *Maison Dieu*, and rented at four pounds a year.

¹ Augmt. Office Bundle, Kent, 15.

² MSS. Harlean Lib. No. 546, art. 433, p. 57.

³ MSS. Cot. Lib. Galba. E. 4.

At the suppression of this house, the income was valued at £231 : 16 : 7, according to their receipts; but the clear yearly value was £159 : 18 : 6.'

Edward Prescott, of the parish of Guston, A. D. 1482, gave in his will, to every member of this society, being a priest, three shillings and fourpence, and to every novice twelve pence, to sing dirge and masses on his obiit-day, month-day, and twelve-month-day, and for all departing souls.

By the will of John Bingham, proved A. D. 1513, it appears, that there were several lights kept burning in this church. He desired, after his decease, to be interred in it, and he bequeathed money to the high altar for tythes and offerings, which might have been omitted through forgetfulness. He also gave money for maintaining Saint John's, Saint Christopher's, Saint George's, and Saint Hillary's lights, and the light for Our Lady and the cross; and for six tapers, burning before Our Lady in the undercroft, weighing three-fourths of a pound of wax; also three wax tapers, weighing together six pounds, for the sepulchre. He gave towards the repairs of the church twenty shillings.

Thomas Grove devised certain lands to this church, for a priest to pray for his soul for ever.

John Boulle, of the parish of Saint Mary, in Dover, by his will, proved A. D. 1536, died seized of a piece of ground in the church-yard, in which he kept hogs; and of another piece in the church, where he had a stable.

This house, and the buildings, were soon after left to the desolating hands of Ralph Buffkin, Thomas Wingfield, and Robert Nethersole; but as the walls of the church were built chiefly with flint, the materials would not pay the expence of taking them away; and as there was no profit to be obtained by levelling the fabrick, the walls were left, and are still standing.

Dugdale.

By the return of the commissioners, there were in this church, at the time of its suppression, a censer of silver, gilt; two gilt silver cruets; a cross, plated with silver, and gilt; and a chalice, well doubled gilt. These were all taken away by Robert Nethersole, of Dover, without any authority, neither was it publicly known how he disposed of them.

The value of this vicarage, in the reign of Richard the Second, was £3 : 16 : 8. It was not taxed to the tenths.

The trustees appointed by the authority of parliament, A. D. 1650, surveyed the lands, and the premises, belonging to the Maison Dieu, late the property of Charles Stewart, King of England, let at the yearly rent of £12 : 10 : 8, and intended for sale. Their valuation was as follows.

	£. s. d.
45 Acres of meadow land, in Guston and Charlton,	35 10 5
56 Acres, Great Arable Field, in Guston and Charlton,	42 0 0
80 Acres of pasture, near Dover Castle,	32 0 0
150 Acres, Warden Down, on the north side of the Castle,	41 5 0
20 Acres Castle Land, near the last-mentioned field,	<hr/> 7 0 0
 Improved rent,	
£ 157 15 5 <hr/>	

Other premises belonging to the Maison Dieu.

	£. s. d.
A tenement in Biggin Street,	4 10 0
A tenement, and two pieces of land, in Biggin Street,	1 0 0
A plat of ground in Eastbrook Street,	0 5 0
A tenement near the Fish Market,	2 0 0
A tenement, and eighteen perches of land, Above Wall,	<hr/> 2 0 0
 £ 9 15 . 0 <hr/>	

The valuation of the Maison Dieu by the commissioners, when divided into several lots.

Lot.	<i>£. s. d.</i>
1. A malthouse, and one acre of land,	30 0 0
2. Three roods of land,	9 0 0
3.	1 10 0
4. One rood and ten perches,	10 0 0
5.	3 0 0
6. One rood of land,	8 0 0
7. Ten perches,	5 0 0
8.	1 0 0
9. Two roods of land,	3 0 0
10. Three roods,	10 0 0
11. The Maison Dieu, enclosed with a stone wall, a barn, and other buildings, valued at the yearly rent of	30 0 0
	<i>£ 110 10 0</i>

If the valuation of the lands by the commissioners under Cromwell, be compared with the rents while held of the King, or even with those of the present day, it will shew, that their pretended zeal for correcting abuses, was a cloak to cover their extorting money from the tenants who held estates under the crown. The following valuation will be a further proof of this.

A second valuation of the lands belonging to the Maison Dieu.

	<i>£. s. d.</i>
1. Nicholas Lowe's meadow, adjoining the river, near Dover,	7 0 0
2. Two acres and two roods of land, on the north side of the park wall,	3 0 0
3. Sixty acres, in the Maison Dieu field, in Charlton,	75 0 0
4. Castle Down pasture, sixteen acres, in Charlton,	8 0 0
5. Copehill field, or Castle Down, eight acres,	16 0 0
6. Brookes's ditch, five acres,	7 0 0
Carried forward,	<i>£ 116 0 0</i>

	£. s. d.
Brought forward,	116 0 0
7. Limekiln field, adjoining Dover priory south, ten acres,	11 0 0
8. Upper meadow, three roods,.....	1 10 0
9. Sedge meadow, near Charlton barn,	10 0 0
10. A meadow at Charlton, two roods,	1 10 0
11. The sheep piece, or ozier ground, one rood,	0 10 0
12. The coppice called Tradamus, four acres, at River,	2 0 0
13. The coppice, or Paul's Thorn wood, five acres, at Alkham, ..	2 0 0
14. Paul's Thorn, or Maison Dieu close, one rood,	0 15 0
	<hr/>
	£ 145 5 0
	<hr/>

The Maison Dieu was used as a victualling office in the time of Henry the Eighth; but in the beginning of the reign of Elizabeth, the premises were converted, with several tenements, and let on lease to Thomas Bloome, malster, at the yearly rent of sixty pounds.

Queen Elizabeth, by her letters patent, in the twenty-eighth year of her reign, granted to William Skiffington, and Elizabeth his wife, and John their son, or the longest liver of them, the last-mentioned premises, at the yearly rent of sixteen pounds and sixpence.

Charles, in the first year of his reign, granted the reversion of the same premises for forty years, at the same rent, to Thomas Carey, one of the grooms of his bedchamber, reserving a right of revoking any part of his grant useful to the navy, at a reasonable abatement of the rent.

The church, and a small building at the east end of it, and a part of the wall which enclosed the park, are all the remains that the ravages of time, and the desolating hand of reformers, have left us of this house.

If the roof of the church was ever supported with pillars, they have all been taken away; and the windows, which were large and lofty, have been built up with bricks, and the building is now con-

verted into a brewhouse, and a bakehouse, for the use of the navy, with store-rooms for wheat, flour, and biscuit.

While the church is used for brewing and baking for the navy, there will be always a building, to point out, to the curious traveller, the place where the great Hubert de Burgh expended so much money, and gave such large donations for the accommodation of pilgrims, and other persons passing through Dover, to and from the continent.

On the opposite side of the road, and a little beyond the Maison Dieu, there was a Saxon burying ground, where several swords, spears, and beads, have been found in digging chalk; and when St. Mary's workhouse was built, fourteen urns of coarse clay were ploughed up, standing in a row near each other, which were broken to pieces by the share. They did not contain any thing but a few ashes.

CHAP. IV.

Saint Bartholomew's Hospital, near Dover, built for Lepers. Different opinions of the disease. Examination of patients. When, and by whom, their rules and laws were compiled. Regulations of the Society. Their poverty. Fair. Suppression, and grants of lands.

In the reign of King Stephen, and about the year 1152, an hospital was erected near Dover, either by Osborne and Godwin, two monks belonging to the priory of Saint Martin; or by Theobald, archbishop of Canterbury, with the consent of the prior and his brethren.

They gave a piece of land called Thega, at the foot of the hill, on the left hand side of the road going to Canterbury, for the scite of the house, and nearly opposite to Barton farm. It was granted on this condition, that the society of the new hospital should daily pray for the souls of all the members of the priory, their predecessors and successors. As the Benedictines had received their extensive donations from their liberal benefactors on these terms, they required the same conditions from those, who were to receive a trifling favor from them.

This hospital, like many others built for leprous persons,¹ was dedicated to Saint Bartholomew. In the ninth century, there were nine-

¹ It has been supposed, that the *Lepra Aratum* was first brought from the east into England, and many conjectures have been offered, to define the nature of the leprosy of the Europeans; but doubts seem still to be entertained, both of the origin, and the primary cause of it.

Whether this disease was a native, or transplanted from a more southern climate, it certainly spread with great rapidity amongst the inhabitants of Europe; and it made such terrible ravages in the human system, that all the palliatives, administered by the sons of Æsculapius,

teen thousand of these in Europe, for the reception of persons of both sexes, who were afflicted with a loathsome and fatal disease; and as they were but seldom visited by the rich and the great for accommodations, this might be one reason why so many of them were meanly endowed, when compared with other religious houses, which were enriched by the mistaken piety of our ancestors.

could never prevent the infection from sending the unhappy sufferer to an untimely grave.*

Dr. Rush considered the leprosy, the elephantiasis, and the venereal disease, as different modifications of the same disorder.

+ It could not be the elephantiasis of the east, as that affects only the leg, and has been accurately described by an intelligent and modern traveller, who says it is not infectious.

The red disease of the Egyptians, mentioned by Sonini, and described by Hillary as the leprosy of the joints, seems to agree, in some of its symptoms, with the European leprosy; but the disease was not to be communicated by an infectious person, nor were the natives in the least apprehensive of taking it. The leper of Tahta, who applied to him for relief, proves that the disease was not infectious.

The red disease of the Egyptians, may be the second stage of the *Lepra Arabium*, by the description given of it by an inhabitant on the coast of Africa. He says, as the disorder advances, the fingers and toes are affected with spreading ulcerations, which become considerably enlarged, and in due time drop off. The lobes of the ears are much thickened, and the lips swollen. In the third stage, the progress is marked by the

voice, which becomes hoarse and gutteral. The patient generally speaks through the nose, because of the ulceration in the throat, and foams. the disease then advances very rapidly; and when the voice becomes unintelligible, death soon closes the scene.

The difference in the symptoms, between the European leprosy, and the *Lepra Arabium*, in the tenth and eleventh centuries, might be owing to a difference in climate, and diet; and the original cause might still be the same. The ancient practitioners of the healing art certainly attended to the symptoms. They have described the voice of the patient to be hoarse, and passing through the nose. The face as shining and bloated, with knobs green at the bottom, and white on the top. Their eyes red and inflamed, and their ears swollen and ulcerated near the lower parts, and their flesh coming away with the hair. The nose sunk, by the rotting away of the cartilage. The nostrils contracted inward, and if pricked with a needle, it gave no pain.

The method of taking this disease, and the fatal effects which followed, are particularly described by Dr. Gascoigne, chancellor of the university of Oxford, A. D. 1430.‡

* Winterbottom's Account of the Diseases of the Africans, vol. 2, p. 50, &c. + Bruce, vol. 3, p. 40, &c.

† See Phil. Trans.

Robert Wells, and John Hewsfield, two monks belonging to the priory of Saint Martin, and Thomas of Canterbury, their superior, A. D. 1373, compiled, from the papers in their possession, and from their memoirs, a ledger book, for the use of the society.

The manuscript, which contains the orders to be observed, at the admission of the patients, the laws for the government of the house, and the terrier of the lands, tenements, and annuities belonging to the hospital, is in good preservation, in the Bodleian Library, at Oxford.

It was at first intended, that the society should consist of ten brethren, and as many sisters; but as the charitable donations were not equal to their expectations, they were reduced to eight of each. Before the patients were admitted, they were examined upon oath, by persons appointed for the purpose.

The Terms of Admission.

Every petitioner for admission, was first to obtain the consent of the society, and then to pass an examination before the superior of the house, relative to the symptoms of the disease, which are described in the note. A married woman could not be received, without the consent of her husband.

At the time of admission, the new member was to pay a certain sum into the fund, for the benefit of the society; half a mark to the warden, four-pence to each brother and sister, and a fee to the porter of the lodge.

Before the patient was clothed in the habit of the society, the vestments were blessed by the priest; and when the service was ended, they administered the following oath.

“ I A. B. here before God, and holy Bartholomew, and all saints, do promise to be faithful, and useful, to the society of holy Bartholomew, near Dover; to be obedient to my superior, and to have love to my brethren and sisters. I will be sober, and chaste; and a moiety

of the property I shall die possessed of, shall belong to the hospital. I do also swear, that I will pray for the peace of the King and Queen, for the prior and convent of Saint Martin's; for the burgesses of the town, both on the land and the water, and for all the deceased benefactors of this hospital."

The person to be admitted was then sprinkled with holy water, and led to the altar; and after the service for the occasion, the candidate was clothed in the proper habit of the society.

The superior was obliged to swear, that he would observe the rules and orders of the house, and preserve the goods, and be obedient to his visitor, and render an account of his office when called upon.

The warden seemed to consider the prior of Saint Martin as his visitor; but he was so far independent, that he and his brethren had a seal, and they could accept grants of lands, and do many acts of a corporate body.

Libations.

These were certain portions delivered to each member on particular festivals.

At Christmas, they had each of them eight-pence, and their usual allowance of pork, barley, and beer.

They had an oblation of two-pence for a dinner, on the festival of the Nativity; the same on Easter-day, on the day of the dedication of their church, and their own birth day, according to ancient custom.

On the festival of Saint Bartholomew, their patron saint; on the vigil and festival of the Nativity of Christ, the Circumcision, and the Epiphany, they received four-pence. They had also pan-cakes distributed among them, and the alms given on the festival of Saint Bartholomew.

They were allowed oats for porridge, and beans and peas to seed their ground. Upon the death of a brother or a sister, two measures of fine flour were distributed among them.

No member admitted into the society, neither man nor woman, were to go beyond the gates of the dormitory, without permission either of the warden, or the matron; and after their first sleep, they were to sit up in their beds, and say a Paternoster.

The men were not to tap at the door of the women's dormitory in the night, nor to play any pranks, nor make any assignations.

They were to share equally the increase growing on a field called Rose Bound, on the lands on the east side of the hospital; and twelve feet wide round the water called Thega, and the willows of their own growth.

They shared equally all profits arising from their dairy, their poultry, and their sucking pigs; but if they were weaned, the money was placed to the general fund.

No member could be absent a night from the hospital, without the permission of the prior of Saint Martin's; and for a breach of this rule, and for quarrels, he could inflict what punishment he pleased; nor were they to contract any debts without his leave.

The warden was to attend in taking in, and securing their provisions, and to render an account to the visitor; and he was to see that the healthy and the diseased were not in the same room.

The common seal of their hospital, and the grants of their lands and tenements, were to be deposited in a safe place; neither could they alienate, without the consent of the visitor.

Retirement was deemed necessary, and they were not to have any windows, which commanded a prospect either of the road, or the town.

The warden was to keep an inventory of the goods in the house, and the images in the church, and to have the lamps lighted at the entrance into the chapel; and the gate leading to the dormitory was to be kept shut during the night. Certain alms and oblations were to be expended in beautifying the church, and a lamp was to be kept daily burning before the crucifix.

The priest was to be allowed the usual fee for daily masses, for mattins, vespers, and administering the sacraments, and for confessing those belonging to the hospital; but he could not receive the confessions of any other person.

The thirteen wax tapers, and the four pounds of cotton candles, lighted only on the festival of the Nativity, and of Saint John, were equally divided among the members of the house.

This hospital, like many others dedicated to Saint Bartholomew, had for many years a very confined income, and they depended chiefly upon their industry, and the occasional gifts they received from diseased persons. Their poverty was so pressing at their first institution, that Theobald, archbishop of Canterbury, gave them a licence to collect alms within his diocese, for twenty days; and Richard, bishop of Chichester, gave them the same privilege.

John Challfield obtained permission to collect alms, for two years, throughout all England. In the year 1370, they obtained a further grant, with the same privilege; and pope Clement encouraged the people to bestow their alms, as they hoped for a remission of their sins.

They had a grant for holding a fair within the precincts of their hospital, on the festival of their patron saint.

As this house was suppressed with the Maison Dieu, and the priory, it is probable that the disease, which had afflicted so many of its inhabitants, had lost much of its malignity, by the application of some specific, which rendered such hospitals unnecessary.

The avarice of the King would hardly have carried him so far, as to seize on an assylum for such miserable and infectious persons, if the treatment of their disease had not been better understood than it was by the ancient physicians.

When this house was suppressed, the church and the buildings were demolished by one John Boulle, a leading man in Dover, without any commission; and he did his business so effectually, that he did

not leave one stone upon another to stand. He was so eager after gain, that he pulled up the grave stones, and plundered the dead.

Their annuities, rents, and other particulars, may be seen in the following list.

Lands, Tenements, and Annuities, and the names of places where the Lands were situated.	Yearly Rent. Money. Fowls. £. s. d.
Land, in Biggin ward, in Dover,	0 4 5 2 cocks.
House and garden, in Biggin ward, 4 denarii,	0 2 6
House and garden, in ditto,	0 2 5 2 cocks.
House and garden, in ditto,	0 4 7 2 cocks.
House and garden, in ditto,	0 2 3 2 cocks.
A messuage, in La Boor,	0 4 0
An annuity from a messuage in Biggia ward,	0 3 0
Messuages, in Saint Mary's ward,	0 18 0
An annuity from a messuage, in Burman ward,	0 2 7
Land, in Burman street, value not known.	
A tenement, in Burman ward,	0 2 0
A house, in Ox ward, value not known.	
A house, in Snargate ward, value not known.	
Land and houses, in Snargate ward, value not known.	
Land, in Ballast ward, value not known.	
Certain buildings, in Ballast ward,	0 9 7
Land and tenement, in Ballast ward, value not known.	
Land and building, in Park's ward,	0 12 0
Land, in Broad street, value not known.	
Land, in Wolves ward,	0 6 0
Tenement, in Wolves ward,	0 18 0
Lands, in Wolves ward,	0 2 8
Messuage, in Wolyes ward,	0 2 0
Land, in Wolves ward,	0 2 8
Tenement, in Wolves ward,	0 2 8
Messuage, in Horse-pool ward,	0 8 0
Messuage, in Horse-pool ward,	0 8 0
Land, half an acre, in Castle Dane, value not known.	

Lands, Tenements, and Annuities, and the names of places where the Lands were situated.	Yearly Rent. Money. £. s. d.	Fowls.
Houses, in Horse-pool ward,	0 4 0	
Lands, in the port of Dover, ward not mentioned,	0 5 0	
A house, in ditto, value not known.		
A messuage and garden, in ditto, value not known.		
Lands, in the port of Dover, ward not mentioned,	0 10 0	
Lands, in Charlton, value not known.		
An annuity, out of a messuage, in Charlton,	0 9 0	
Lands, in Charlton, value not known.		
Part of a messuage, in Charlton,	0 6 0	
Land, half an acre, near the prior's lands.		
A tenement, near the hospital,	0 9 0	1 cock.
A curtalagium, in Charlton,	1 0 0	4 cocks.
One acre and a half of land, near the prior's lands, an annuity, payable from it, of eight shillings to the prior, and the same to Saint John's church, in Dover.		
An acre and a half of land, in Spital Down.		
Lands, in Berghes, by paying eight shillings yearly, at two payments, to Saint Nicholas church.		
Lands, in Berghes,	0 2 0	
One acre of land, at Le Lynche.		
Four acres and a half of land, on Windless Down.		
Three virgatas of land, at Charlton.		
One curtalagium, at Charlton, by paying twenty shillings and four cocks, to the lord prior.		
An annuity, out of land near the hospital lands,		5 cocks.
One acre and a quarter of land, at Poltone.		
Two acres of land, at Poltone,	0 4 0	
Two acres and a half, and one virgata, on Windless Down.		
Half an acre of land, at Atterton,	0 4 0	
Sixty acres of land, at Atterton.		
Three virgatas of land, at Bocland.		
Three virgatas of land, at ditto.		
Annuity, during the life of the giver,	0 2 0	1 cock
Certain messuages, at Bocland.		

Lands, Tenements, and Annuities, and the names of places where the Lands were situated.	Yearly Rent. Money. £. s. d.	Fowls.
One tenement,	0 4 0	2 cocks.
One tenement, at Bocland,	0 3 4	1 cock.
An acre of land,	0 2 0	
A mill, at Atterton,	1 0 0	
A water mill, at Bocland.		
An annuity from a messuage, at Bocland.	0 0 8	
Lands, at Bocland, by paying to the prior of Dover one denarius yearly.		
Two acres of land, at Eastbridge.		
An annuity from lands, at River,	5 0 0	
Two acres of land, fourteen denarii, at River.		
Two acres of land, at Longport.		
Two acres of land, at River and Longport.		
Certain lands, quantity not known, at Thothey.		
An annuity of twelve denarii, out of lands, at Bontale.		
Five acres and a half of land, at Swynefield.		
Five acres of land, for twenty years, at Swynefield..		
A person gave the tythe of his land, at Swynefield.		
Fourteen acres of land, at Wingham.		
Two acres of land, value eight denarii, at Sholden.		
One acre and three virgatas of land, at Deal.		
One acre of land, and a tenement, at Tilmanstone.		
Half an acre of land, at Ryngewood.		
Thirty acres of land, and two tenements, at Tilmanstone.		
Lands, at Canterbury and Woodenselle,	0 7 0	
An annuity from lands, at Leedes,	0 12 0	

CHAP. V.

The Collegiate Church of Saint Martin. By whom founded: The canons removed from the Castle. Chaplains to the King. Held their lands in common. Otto divided them into separate prebendaries. Description of their lands from Doomsday Book. Deprived of some of their manors. Revenue diminished. The number of solars they possessed. Difficulty in ascertaining the number of acres. The canons build several churches. Required to use hospitality. Statutes to prevent the abuse of it. Complaints against them. Dispossessed. Priory built. Long contentions. Surrender and demolition of the Priory. Library. List of priors. Rent of assize. Suffragan bishops. Franchises.

It is recorded in an ancient Chronicle,¹ that Withred, King of Kent, built Saint Martin's church, with several edifices in the town of Dover, for the accommodation of twenty-two secular canons, which he removed from the Castle. To prevent any cause of complaint, and to reconcile them to their new situation, he secured to the canons by charter, all the franchises and possessions which they had enjoyed on the Castle hill; and he added this further privilege, of exempting them from the jurisdiction of any ordinary or judge, excepting himself, and the Pope, and his successors, Kings of England.

As their sovereign was their patron, they were endowed at an early period with large grants of land in the neighbourhood of their church, and several of their members were chaplains to the King. Their

¹ Cot. Lib. Vesp. B. 7, p. 42, Latin.—Dugdale's Monast. vol. 1, Norman French.

names were Baldwin, Alwi, Spirites, Alric, Esmelt, Lewin, Edwin, and Ulric,* and they had a chapel in their church appropriated to the King's use. The canons held their possessions in common, under several of the Saxon Kings; but encroachments were made upon their estates prior to the Norman Conquest.

In the reign of Harold, Alnod, the superior Thane of the district, seized the manors of Mersham and Hawkings, without making them any adequate recompence, nor could they procure any redress from the King.

Several of the canons were prebendaries, and they had houses and lands annexed to them at Sibertswould, Buckland, Charlton, Farthingloe, Guston, Deal, and Saint Margaret's near Dover. This was done by Odo, Earl of Kent. The particulars of each of them may be seen in the following table.

* Doomsday Book.

A summary Table of the Lands held by the prebendaries, and a few select tenants, under the Collegiate Church of Saint Martin, in Dover, with their value, and other particulars, in the time of Edward the Confessor, and William the First.

HUNDREDS.		Names of Parishes.	Prebendaries under Edward the Confessor.	Tenants, not Prebendaries.				Tenants and prebendaries, under William the First.	Carucates in demense				Yokes.	Acres.	Villains.	Borderers.	Servants.	Churches.	Value in the reign of King Edward.	Value in the reign of King William.	King William's reign of Edward.
Bewsbury	Cornelai	Lewin	Ulric	Sired	Radulphus de St. Sanson.	Alain	1	3	4	6	10	1	1	2	1	1	3	10	0	3	
Bewsbury	Charlton Buckland Guston	St. Margaret Ditto Ditto Ditto Ditto Ditto	Sired Alric Alred Sigar	Sired Radulphus Alred Robert Nigar	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	
Cornelai	Bewsbury	St. Margaret Deal	Edwin	Edwin	1	2	1	1	1	1	1	1	1	1	1	1	1	1	1	1	
Bewsbury	Cornelai	Deal	Stigand Anschtill	Anschtill	1	2	1	1	1	1	1	1	1	1	1	1	1	1	1	1	
Bewsbury	Cornelai	Deal	St. Margaret Sibertswold	Wm. Patisansis	1	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	
Bewsbury	Cornelai	Deal	Ab. of St. August.	Ab. of St. August.	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	
Bewsbury	Cornelai	Deal	Sibertswold	William of Tedal Devine	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	
Bewsbury	Cornelai	Deal	St. Margaret Farthingloe	Nigellas Geoffrey Baldwin	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	
Bewsbury	Cornelai	Deal	Hougham	Edwin	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	
Bewsbury	Cornelai	Deal	Buckland	Godric	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	
Bewsbury	Cornelai	Deal	Sibertswold	Ustan	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	

Sired, Godric, and Sewen, held one solin, and sixteen acres, upon which there were three villains, and nine borderers, with one caruc, which rented for twenty shillings, exclusive of their prebendal lands.

In Linwarle's lest—there were, upon the solin in Blackbourne hundred, nine villains, with two caruces, at the yearly rent of sixteen shillings and eight-pence.

In the hundred of Street—the canons had one solin in Stanested, and seven villains, with two carueates and one half, and seven borderers, and pasture which paid sixteen shillings and eight-pence yearly.

In Belisolt hundred—they had one solin, upon which there were seven villains and seven borderers, with four caruces, which yielded nineteen shillings and ten-pence.

They had also three solins, and five dens, with seven villains and five borderers, who had three caruces and one half, for which they received eight shillings and nine-pence.

In Brenset—they had a small piece of land, on which there were two villains and three borderers, with half a caruc, worth fifteen pence.

The whole of the above-mentioned premises lay between the wood and the open country; and when they were held in common by the canons, in the time of the Confessor, they were valued at ten pounds.

The lands at Northwood, Ripa, and Brandet, were given them in alms, and they were worth twenty shillings. Upon a part of their demesne lands, they had seven villains, with half a caruc, which paid three pounds, and it was appropriated to the buying them shoes. They held in Eastry lath, and the hundreds of Cornelio and Bewsbery, twenty-one solins. One in the hundred of Eastry; another in the hundred of Belisolt; and a third in the hundred of Blackbourne.

The prebendaries held their lands in common in the reign of Edward the Confessor, and they produced in the whole sixty-one pounds; but when the Norman survey was made, they yielded no more than forty-eight pounds, six shillings, and four-pence.

Ralph Columbels had taken from them a pasture; Robert of Romney a salt work, and a fishery worth twenty pence yearly. Hubert, the son of Ivo, gave to the Bishop of Baieaux a mark of gold, to permit him to take possession of a mill, which belonged to the canons, and he held it contrary to all right. Lambart also took from them one, and Woodward another, and Ralph Curbspine a third.

The canons had three churches in the town, worth thirty shillings and eight-pence; a garden and a pasture at Medredive, valued at nine shillings and four-pence; and another a Sibbertswould, at sixteen pence.

In the reign of Edward the Confessor, they had ten mills, and one half of a mill, which were valued at the Norman survey at twelve pounds; but they did not yield so much to the canons. They had eight men in the mills.

The archbishop received annually of the canons fifty-five shillings. They held four hundred acres and a half in common, which were estimated at two solins and a half, that never paid any lot or custom, because the twenty-three solins were free of taxes.

Under the Saxon Kings they had one hundred acres of land at River, fifty at Northwood, and one hundred at Brant, with three villains and nine borderers, with one caruc and a half, free of taxes.

Robert of Romney succeeded Alnod, and he held the manors of Mersham and Hawkinge, which ought to have reverted to the canons.

William, the son of Ager, held in Calarton (Charlton) one solin, and one caruc, with a mill of forty shillings. He also held a church in Dover of the bishop, for which he gave him two pounds; but the canons claimed it. The total value was six pounds in the time of King Edward, and twelve when Sirel held it.

The bishop of Baieaux took eight acres from the prebendal lands, belonging to Edwin, in the Parish of Saint Margaret, which he gave to Alan, his clerk; and when the survey was made, Ulric, of Oxford, held them.

Odo, by appropriating the lands in different manors to the prebendaries, and by suffering his military retainers to seize on the possessions of the canons, he had an opportunity of gratifying his ecclesiastical and military dependants, at the expence of this society.

At the time of the Norman Conquest, celibacy was not enjoined the clergy; for the sons of several of the prebendaries of the collegiate church, at Dover, succeeded their fathers. Ulric, Segar, and Alred, were the sons of priests.

Though the number of solins belonging to the canons are particularly enumerated, there appears to be a difficulty in ascertaining the quantity of acres which they contained with accuracy. The division of the county of Kent into solins by the Norman surveyors, is as it was taxed in the time of the Confessor; and the reducing them to the Norman method of reckoning by carucates, and to the English mode by acres, has given rise to a diversity of opinions. A caruc has been estimated to contain as much land, as a team of oxen could plough in a year, including the meadow ground belonging to the villains; but it appears that the number of acres have varied in several instances, in different lordships; and there have been three, and three and a half, and even four carucates, to make a solin.

In the preface to Thoroton's History of Nottingham, he says, that as far back as the annals of the measure of the county carry us, they were taken from the plough. With the Saxons, a family, a mense, and a hide, are of the same signification as a caruc with the Normans, or what we call a ploughland; which is as much land as a team of oxen will plough, with pasture for the cattle.

The caruc is the same with the hide, which frequently consisted of one hundred and twenty acres; but this number varied, according to the good or bad quality of the soil.

The virgata was also unequal, but four of them made a caruc; and so were the bowata, or what we call an oxgang, eight of which made a caruc; but these also varied with the fruitfulness or the sterility of

the soil. Sometimes they contained twelve, sixteen, or eighteen acres. Nor were the acres always equal ; and it is difficult to ascertain the exact quantity of the lene, or the quarentum, in the Doomsday Book. It was these measures regulated all the taxes and aids.

According to Madox, there was also a great difference in quantity or extent, between one knight's fee and another ; but if the King enfeoffed a person with a knight's fee, he took it as such, whether it contained more or less acres. When there is so much uncertainty about the number of acres contained in a hide, it will be difficult to ascertain how many acres the canons possessed at the time of the Norman survey.

If a caruc be estimated at sixty acres, which is the lowest I have seen it mentioned in the Doomsday Book for Kent, and a solin at three carucates, the canons had not less than four thousand eight hundred acres of land. But they have been estimated much higher ; and it hath been computed, that they had eight thousand and fifty acres, in different lordships.

Their demesne lands amounted to four hundred acres ; and they had several manors in frank-al-amoigne, for the particular purpose of clothing the members of the society.

The demesne lands, the seven hundred acres appropriated for their prebendaries, and their lands held by an eleemosynary tenure, were exempted from all taxes and immunities to government. The estates in the occupation of their tenants and villains, completed the number of solins assessed to the King.

The canons continued upwards of four hundred years in their situation in the town, and they built three churches ; but they would not permit the officiating priests to begin mass, until it was begun in the collegiate church. They were also prohibited from taking any fee, offering, or emolument, of any denomination, and the canons maintained their authority with a strict hand.

As they were exempted from the jurisdiction of their diocesan, and were answerable for their conduct only to their Sovereign and the pope, it has been said, that they sometimes stepped beyond the bounds of ecclesiastical decorum, and the rules and discipline of their order ; and their little indiscretions might be magnified, by the keen eye of envy, into high crimes.

It is certain, that the archbishop of Canterbury had, for a considerable time, been desirous of obtaining a controuling power over the canons ; and they might have had spies to observe their motions, to calumniate, and render them odious in the sight of the people, to induce the King to put them under his jurisdiction.

In the reign of Henry the First, they were accused of behaving indecently to single and married women, both within and without the walls of the town ; and the accusation, if true, was too serious to pass unnoticed. William Corboil, or, as his name is sometimes written, Corbois, archbishop of Canterbury, A. D. 1124, informed the King, that his canons at Dover could not be cited to his court, for any offence, however great, and that he would be answerable to God for all the sins they committed. These complaints were repeated, at every convenient opportunity, during six years, with additional aggravations.

To the crime of gallantry, they added worldly cares, temporal pursuits, dissipations, and the wasting of their revenue in extravagant luxuries. Many of the religious societies were, at that time, frequently put to heavy expences, by the nobility, gentry, and others, who visited them, when travelling either on business or pleasure ; and they expected that the ecclesiastics would treat them hospitably. As they were situated in a town, through which there were many passing to and from the continent, they were obliged frequently to receive visitors, and to spend large sums in entertaining them.

The religious orders, in the time of Edward the First, found, that having so many persons to accommodate, was such a heavy burden, that their income was insufficient to support their expences, and to use

hospitality to the poor. To check this growing evil, it was enacted, “That no person should visit a religious house at the expence of the society, unless he was the founder, or previously invited by the superior.”¹

As their stock and game were often taken away, under feigned and false pretences, from their demesne and other lands, it was found expedient to check the predatory practice;² and it was further enacted, “That no person under the pretence of kindred, or any other excuse, should hunt in any park, fish in any pond, or lodge in any mansion house, belonging to a religious society, without leave from the superior, or his bailiff.” If they came by permission, they were not to open any door or window they found shut, nor force any lock, nor take away any provision, by pretending to purchase it.

From this precaution it is evident, that the rich visitors often made free with the property of the ecclesiastics, and put them to heavy expences. But these were not their only burdens. The rich abbots, and the heads of the Cistercienses;³ the orders of Saint Augustine, Saint Benedict, and many alien priories, without the knowledge of the King, and contrary to the laws of the realm, oppressed them with pensions, prebends, corrodies, churches, and their clerks; it was therefore enacted, “That they should not contribute to any superior beyond the sea.”

As the rules of several of the religious orders were poverty and obedience, the rich monastic houses compelled those under them, to act up to the letter and spirit of their vows; and by laying so many impositions upon them, it was with difficulty they procured a scanty maintenance.

Though the canons of the collegiate church at Dover were free from the demands of any superior, they were frequently called upon to entertain the nobility and gentry, at a very heavy expence.

¹ Stat. 3 Edw. 3, c. 5.

² 3 Edw. 3, c. 1.

³ 9 Edw. 2, c. 11.—6 Edw. 3, c. 10.

The archbishop made this the ground of his complaint ; and at the feast of the dedication of Christ Church, at Canterbury, there were present King Henry, and his Queen ; David, the King of the Scots, and many of the nobility and gentry ; and in the presence of this august assembly, the prelate renewed his complaints. He said, that the dissipated lives of the canons, at Dover, were as offensive to God, as they were detrimental to the morals of the inhabitants of a populous town ; and the prior, and his brethren, of the priory of Christ Church, joining with their diocesan,¹ they obtained the promise of the King of a grant of his royal chapel at Dover, without giving the canons an opportunity of vindicating their own conduct. ²They prevailed on the King to grant all their revenue, whether arising from the land or the sea ; with the privilege of sending a superior from their own society, to govern the house at Dover. The archbishop, having obtained this valuable acquisition to his priory, was obliged, both in prudence and sound policy, to guard against similar complaints in future.

He laid the foundation of a new building, called the priory, A. D. 1152, in the fields not far from the town ; and he had the work carried on with such expedition, that it was finished in four years, with all its extensive buildings. The archbishop himself, having been a canon, was partial to the order, and he proposed placing the canons of Morton in his new priory. He obtained a grant from the King for this purpose, with permission for them to elect a superior out of their own body ; and for them to receive all the rents and emoluments belonging to the canons of the collegiate church.

As he knew that the prior and the monks of his cathedral would oppose his designs, his intentions were kept a secret ; and he sent John, the bishop of Norwich, and Richard, the bishop of St. David's, with Helwise, his archdeacon, to consecrate the new church ; and the canons accompanied them, with their goods and chattels, to take possession.

¹ Decem. Scrip. Gerv. p. 1341.

² Charter of Henry.

The monks of Christ Church agreed perfectly with the archbishop, in procuring the revenue of the canons, but they differed very materially from him, when they found they were not to reap any of the fruit; as they expected it, from the King's promise.

They dispatched one of their members after the party, to protest against their proceedings; and to declare, that they would appeal to the pope for justice, if they put the canons of Morton into possession. This spirited opposition frightened the bishops; and as they had no inclination to visit Rome upon such business, they returned, without consecrating the church, to inform the archbishop of what had happened. This disappointment was a great mortification to him; and he hastened, with all possible expedition, to his church at Canterbury, to expostulate with the monks for opposing his wishes. This proved a fruitless journey, for he found them determined not to yield up the rich prize to him. This disappointment agitated his spirits to such a degree, that he was taken ill, and died, within eleven days after his visit to Canterbury. By this sudden change, the canons of Morton were deprived of their patron, and their prospect.

The monks of Christ Church having lost their formidable opponent, they determined to take possession of the new priory, before the appointment of another archbishop; and they sent twelve monks, with William de Longville for their superior, from their own house, and they entered, without waiting for the consecration of the church.

The canons in the town, smarting under the injuries and the injustice they had experienced, were desirous of turning the difference of the contending parties to their own advantage; and they represented to Henry, the bishop of Winchester, the King's brother, and the pope's nuncio, the treatment they had received; and he, finding that they had been severely treated, expelled the new inhabitants, and forced them to return home.

The canons being again re-established, they continued to receive their rents until A. D. 1139. Theobald was at that time promoted to

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the see of Canterbury ; and being desirous of living in harmony with the monks of the metropolitan church, he consented that they should take possession of the priory built by his predecessor. Twelve monks were again sent, with Osceline their sacrasit for their prior ; and they entered the premises without opposition. This being done with the joint consent of both parties, the poor canons were obliged to resign the revenue they had so long enjoyed, to their more fortunate successors.

The prior of Christ Church, being desirous of securing what had been obtained with so much difficulty, applied to pope Innocent for a confirmation of King Henry's grant to them,¹ and he readily complied with his request. By having possession, and a confirmation of their grant from the pope, they concluded that they had secured the title. Theobald having been himself a Benedictine, the new settlers agreed to take the order of their diocesan, and he in return invested them with all the power he had received from the King's grant.

Henry the Second confirmed the grant to Theobald, and his successors, and to the prior, and convent of the cathedral church, and he added to his confirmations, all the rents and profits which had been received by the canons, with the old and the new tenths of the whole year's fishery, which the burgesses of the town had given as an oblation to the altar of the new priory.

Theobald indulged the monks of Christ Church with the privilege of choosing a superior from among themselves, upon a vacancy, to govern the house at Dover. This was going a step beyond the authority given him; but to keep the monks in good humour, he gave them whatever they asked. The sending a prior from Canterbury laid the foundation for a continual discord between the two houses, and the revenue of the new priory was wasted in continual litigations, and in a course of time the society was reduced to poverty.

¹ Conf. of Pope Innocent. Hen. 8, p--m. 12 per Inspx.

Archbishop Baldwin saw, with concern, the dissensions which had arisen from the injudicious plans which had been adopted for the government of the house; and he determined to change the system the first opportunity, and to endeavour to establish peace.

The vacancy of a prior happening at Dover A. D. 1187, Baldwin appointed Osborne, a member of Saint Martin's priory, to the office. While this plan was pursued, the society flourished; but their prosperity depended upon the will, or the life of their diocesan. The archbishop lost the good opinion of the monks of Christ Church, by freeing the benedictines from their tyranny; and his successor, Hubert, delivered them again into the hands of their oppressors.

The monks of Christ Church saw that they held their privilege by a very precarious tenure; and they determined, if possible, to place it on a more permanent foundation. In the year 1258, they applied to pope Adrian to confirm their right of nominating a prior, upon a vacancy, to govern the benedictines at Dover.

This his holiness readily granted them, and they considered it as final; and they resolved, that the benedictines should live according to the rules of their order: which enjoined poverty, and obedience to superiors.

This rigid system was continued upwards of seventy years, 'till the severity of discipline compelled the society to petition King Henry the Third to redress their grievances. He attended to their complaint,¹ and issued his precept to the constable of Dover Castle to protect the benedictines in their rights and privileges. The constable was either afraid to interfere, or his interference did not relieve them; for, in the following year, they repeated their application; and added, that their revenue had been shamefully wasted by the monks of Christ Church; who had entailed a considerable debt upon the house.

¹ Rymer's *Fœd.*

This memorial produced another precept from the King, directing the constable of Dover Castle, and two of the members of the priory, to preserve the revenue, until the King and his council could determine on a plan to prevent any further abuses.

Henry dying soon after he had issued this precept, all his power died with him ; and the poor Benedictines fell again into the merciless hands of their oppressors, and they were obliged to suffer and submit.

Early in the reign of Edward the First, Asceline was appointed prior, and he was so strict a disciplinarian, that he even denied them the necessaries of life ; but with all their abstinence, their house was in a dilapidated state, and eleven hundred marks in debt.

The monks of Christ Church concluded that the Benedictines were too much reduced to make another effort to regain their liberty, and they petitioned archbishop Peckham, to give the priory to them ; as they considered that it had been their right from the foundation.

The society of Dover priory hearing of their intention, and knowing that, if they should succeed, it would be shutting the door of hope against themselves ; they judged that it would be prudent to make one more vigorous effort to prevent it. They presented a memorial to the King, who finding that they were reduced to a miserable situation, he demanded of the prior of Christ Church, to shew by what authority he sent a prior from his own house to govern that at Dover.

The prior laid before the King in council, the charter of archbishop Theobald, which had never been confirmed, and was void in law ; and it was found that he had no claim to a power he had exercised with so much severity. Archbishop Peckham seeing his situation, and wishing to keep clear of disputes, which might involve him with both parties, he requested the King to take the priory of Dover under his own protection, and to permit the society to choose a prior out of their own house.

By the command of the King, Robert Whitacre was appointed, A. D. 1289, and he continued in the office above thirty years, to the no small mortification of the monks of Christ Church.

Though they could not wrest the prize from the hands of the King, they did not loose sight of it; and for more than half a century, they were waiting for a favourable opportunity to recover their suspended jurisdiction over the Benedictines.

In the reign of Edward the Third, there was a vacancy for some time in the archiepiscopal chair at Canterbury, by the pope's interfering in the election of an archbishop; and this appeared to the monks of Christ Church a favourable opportunity to regain the power and the privilege which had been taken from them by the King.

They considered themselves as having authority to hold courts, and to punish delinquents for disobedience, within their jurisdiction, and they accordingly issued their orders for holding a court,^{*} A. D. 1348, under their commission; and citations were sent to the regular and secular clergy in the deanry of Dover, to appear on a certain day to acknowledge canonical obedience to the prior of Christ Church, and to take the oath of fealty. The citation was served on the prior at Dover, as he was walking in the cloisters of his house, by Thomas Norton, an apparitor of the court.

This step was considered by the Benedictines as an artful contrivance, for them to acknowledge the prior of the priory of Christ Church as their feudal lord, that they might have some plea for claiming jurisdiction over them with the next archbishop. The society seeing their critical situation, they unanimously agreed, that it would be more prudent to appoint a person to appear for them; and they deputed John Stokes, a clerk, under their common seal, to answer to the citation. He appeared in court, and produced his credentials, to

* Wilkins' Councils, p. 793.

shew that he was the legal procurator for the Benedictines at Dover. They asked him, if he would take the oath of fealty, and acknowledge the prior of Christ Church as his feudal Lord?

Stokes answered, he was ready to do whatever the law required of him; but he denied that the court had any power to demand it. He was well qualified for discharging the task he had undertaken, with credit to himself, and advantage to his employers. He informed the court that, before he proceeded any further, he must have a copy of the commissioners' commission for holding the court, and also a copy of the citation, with the apparitor's return, and copies of all the proceedings, the expences of which he was ready to pay.

The court deemed this appearance contumacious, and the sentence of excommunication was pronounced against the prior, the preceptor, the sacrist, and the cellarius of the priory of Dover. This induced them to represent their situation in a memorial to the King, who, after considering the matter, demanded a sight of their charter; and on finding that the monks of Christ Church were usurping an authority, to which they had no legal right, he ordered the court to revoke the sentence, under the pain of answering for the contempt of his command.

Though the court was obliged to submit, yet as the rector of Buckland, and the vicars of Hougham, Guston, and Saint Margaret's, did not appear to their citations, the court determined to proceed against them.

Stokes was again employed in behalf of the beneficed clergy. In pleading their cause, he declared, that neither the prior of the house at Dover, nor his rectors, nor vicars, were under the authority of the prior of the priory of Christ Church; although the court had taken the unwarrantable step of excommunicating them, without their having been legally cited, or admonished, or convicted of contumacy. He added, that the court had proceeded in an unprecedented manner, without shewing any reasonable cause, and contrary to general

councils, and to all law and good order ; and as they had pronounced their interdiction, he, as procurator for his clients, would appeal to the pope, and in his court he would apply, again and again, with all the zeal and energy he was master of, until he procured them redress, as they suffered unjustly.

Though Stokes in his pleadings might retard the proceedings of a tyrannical court, he could not prevent the union of interest and power, which finally deprived the Benedictines of the privilege of choosing their prior, and was the cause of blasting the prosperity of their house.

¹ Edward the Third, with the consent of the archbishop, in the thirtieth year of his reign, annexed the priory of Dover to that of Christ Church, and it continued under the controul of that society until the general dissolution ; and they ruled it with an iron hand. If the Benedictines ever made any more attempts to regain their liberty, they proved ineffectual, and they remained under the yoke until the surrender of their house.

It appears from the preamble to the act for the abolishing of religious houses, that the great, and the rich monastic orders, had oppressed the small societies, and reduced them to ruin ; and that it would promote the glory of God, and the honour of the realm, to abolish all those houses which had not two hundred pounds a year.

To encourage the abbots, and priors, to deliver up every thing valuable, without any concealment, they were promised annuities, and benefices, according to their stations. To quiet the fears of the poor, and to prevent them from taking any part with the monks, they were assured, that all persons, bodies politic and corporate, who should occupy the demesne lands of the monks,¹ would continue to use hospitality upon the scites of the suppressed monasteries.

¹ Stat. 11 Edw. 3, p. 1, m. 3.

² Burnet's Hist. of Ref. vol. 1, p. 190.

Many severe things have been related of the visitors, respecting their conduct, in the execution of their office ; and they, in their turns, have published many irregularities, said to have been practised by the monks, and the nuns. They accused them of private factions, coining of money, idolatry, and superstition. The confessors were censured for their gallantry with the nuns, and the monks with married women ; and the crimes laid to their charge by the visitors, were equal to those of Sodom.

The commissioners were first sent into Kent to take possession of the houses at Langdon, Dover, and Folkstone, to render an intercourse with the ecclesiastics on the continent more difficult. Neither Doctor Leighton, nor his associates, observed much delicacy in the execution of their office at Langdon ; for they entered the abbey by violence, and broke into the abbot's apartment at midnight ; and it is recorded, that they found him in bed with his mistress, who passed in the house as a lay-brother, dressed in men's clothes.

These stories were intended to render the monks odious to the people, that they might, without interruption, seize on their property ; for it is clear, by the wording of the act of suppression, they were attached to them.

The abbot of Langdon, and his ten brethren, signed their surrender, and delivered up all their property, and plate, on the thirteenth day of November, in the twenty-seventh year of the reign of King Henry the Eighth. They took possession of the house at Folkstone on the fifteenth, and at Dover on the seventeenth of the same month.

The commissioners, by their letters of instruction, were to sell for ready money ; or if upon trust, then upon security sufficient to discharge the debts of the monks ; and the remainder, with all their rich and valuable effects, were to be sent to the tower.

After the surrender of Dover priory, the King granted all the lands, tithes, and buildings, to Richard, the suffragan bishop, to hold for life, or until he should promote him to a benefice worth one hundred

and twenty pounds by the year. This was soon done, for in the twenty-ninth year of his reign, the King granted to Thomas, archbishop of Canterbury, the scite of Dover priory, with divers lordships and manors, mentioned in the deed of exchange. Henry reserved, in this grant, the advowsons of rectories and vicarages, and also all colleges and hospitals; but he entailed the following annuities on the lands of the priory.

	£. s. d.
To the proprietor of the manor of South Court.....	0 3 10
To the lord of the manor of Maxton.....	0 5 11
To the archbishop of Canterbury.....	0 3 6
To Edward Hextall.....	6 10 6
To the abbot of Saint Austin's, Canterbury.....	0 5 10
To Edward Hache.....	2 15 0
To the bailiff of Dover.....	0 13 4
To the prior of Christ Church, Canterbury.....	5 0 0
To the steward of the court of Saint Martin's priory.....	3 6 8
To Thomas Drake	1 6 8
To John Pullen, beadle of the court of Dover priory.....	1 6 8
To the collector of the rents of Dover priory.....	1 13 4
To the vicar of Saint Margaret, at Cliff.....	2 0 0
To the vicar of Coldred.....	4 0 0
To the vicar of Hougham.....	2 0 0
To the vicar of Buckland.....	4 0 0
To the vicar of Guston.....	4 0 0
To the archdeacon of Canterbury, for synods.....	1 12 6

If the buildings were not sold to the mayor, and two more of the magistrates of the town, they demolished them without any authority; but there is still remaining a gateway, a part of their chapel, and the walls of once a noble room, now used as a barn; and there are sufficient ruins remaining, to bring to the mind of a reflecting observer the spirit of avarice and desolation which prevailed in the reformers.

The Library.

The monks have frequently been branded with the epithet of idle drones, and ignorant teachers ; yet, if we may venture to form a judgment, from the number of the books mentioned in the catalogue which belonged to Dover priory, they had procured a considerable number of volumes, at a great expence, and many a weary hour in transcribing them.

They had several copies of the bible and testament, many volumes of sermons, glossaries, and dictionaries, with a collection of the fathers and the classics.

They had also a considerable number of books, in natural and moral philosophy, history, grammar, institutes, decrees, and councils, medicine, and music ; and a miscellaneous collection in arts, sciences, and other subjects.

If the members of this society had neither any taste for literature, nor a desire of knowledge, they would not have been at the expence and labour of transcribing so many books ; for they were not under any apprehension of being detected in their ignorance by the more ignorant laity of their time.

A List of the Priors.

- 1136 William Longville was appointed by archbishop Corboil, but he was prevented from entering on his office by the monks of Christ Church.
- 1139 Ascelinus was appointed by Theobald, archbishop, and he held the abbey of Hulm in commendum.
- 1142 Hugh Cadmus, secretary to the prior of Christ Church.
- 1149 William succeeded, probably from a private station.
- 1157 Richard was prior many years, until called to fill a higher office.

After the death of the proud and imperious Becket, the King wished to have an archbishop of a mild and gentle spirit, and he earnestly requested of the prior of Christ Church to recommend him such a person. Richard was named, and appointed ; but he was opposed, and an appeal was made to the pope, who confirmed his election.

The only memorable transaction recorded of him, is the dispute which happened between him and the archbishop of York for the primacy; and it was referred to the pope's nuncio, then in England, to decide the matter between them.

A convocation was held at Westminster, and a throne was erected by the nuncio's order; and after he had seated himself, the archbishop of Canterbury, coming in first, placed himself at his right hand. When the archbishop of York came, and seeing the seat he intended to have occupied filled, he endeavoured, by force, to displace his grace of Canterbury; but finding he would not yield, he seated himself in his lap. The bishops assembled were displeased at his rudeness, and exclaimed against his disorderly behaviour; and the servants of the archbishop of Canterbury came, and forced him from his ill-chosen seat. He was very roughly handled, and escaped in a shattered and bloody condition, after being rolled in the dust.

- 1173 Warren, the cellarius, who died A. D. 1180.
- 1180 John, cellarius, was elected in the chapter-house.
- 1186 William de Wingham, was appointed by archbishop Baldwin, to free the society of Saint Martin's from the tyranny of their oppressors.
- 1187 Osborne, a member of Saint Martin's.
- 1193 Robert succeeded, but he was removed by the Bishop of Lincoln.
- 1196 Fœlix, the sacrist, sent from Canterbury.
- 1212 Reginald.
- 1229 William, of Dover, bachelor of civil law.
- 1235 Robert; there is hardly any thing known of him.
- 1251 John, who resigned.
- 1260 Guy did the same.
- 1268 William Bushwell, died at Canterbury.
- 1268 William de Munch, their sacrist, who was dismissed in about four years, and the monks of Christ Church differing among themselves, there was no prior till the year 1275, when they sent Asceline, their sub-prior, who pursued their plan of involving the society in debt.
- 1289 Robert Whitacre, a member of Saint Martin's, appointed by archbishop Peckham to correct abuses.
- 1321 John de Chaldrone.

- 1345 Robert appears in the list.
 1351 Richard, and John de Hougham, both priors.
 1353 Thomas Denison.
 1366 William Christian.
 1367 James Stone.
 1371 James Newnham.
 1393 William of Dover.
 1416 Walter Constance, warden of East Bridge.
 John Wootton.
 1444 John Coombe.
 1446 John Stafford.
 1453 Thomas of Dover.
 1466 Henry Noy.
 1508 John Thornton, rector of Harbledown.
 1526 John Folkstone, or Lambard, who with his twelve brethren surrendered
 the priory. He had a pension of twenty pounds a year for life, and he
 lived to enjoy it until the year 1553.

*The Receiver's Annual Account of the Lands and Possessions belonging to the
 Priory at Dover, in the twenty-ninth year of the reign of Henry the Eighth.*

Parish of Guston.	<i>£. s. d.</i>
The manor of Frith.....	12 0 0
The church at Guston.....	10 0 0
Rents in assize.....	5 10 3
	27 10 3

The prior paid a yearly stipend to the vicar of..... 4 0 0

Parish of Hougham.	<i>£. s. d.</i>
The manor of Farthingloe, with the rents of assize..	16 6 8
The church of Hougham.....	16 13 4
	33 0 0

The prior paid a stipend to the vicar yearly of..... 2 0 0

HISTORY OF

Parish of Saint Margaret.

	<i>£.</i>	<i>s.</i>	<i>d.</i>
The manor of Retche.....	7	0	0
The rectory of Saint Margaret.....	10	5	8
Rents in assize	12	17	11
	<hr/>	<hr/>	<hr/>
	30	3	7

The prior paid yearly to the vicar a stipend of 3 0 0

Parish of Sibbertswould.

	<i>£.</i>	<i>s.</i>	<i>d.</i>
The manor of West Court.....	10	0	0
The church of Coldred and Popshall	13	6	8
The rents in assize.....	9	3	6
	<hr/>	<hr/>	<hr/>
	32	10	2

The prior paid the vicar yearly a stipend of 4 0 0

Parish of Buckland.

	<i>£.</i>	<i>s.</i>	<i>d.</i>
The manor of Dudmanscombe.....	6	13	4
The rectory of Buckland.....	4	0	0
The rents in assize.....	5	2	9
Lands called Buckland Dane	2	0	0
A mill, valued at.....	0	10	0
	<hr/>	<hr/>	<hr/>
	18	6	4

The prior paid the vicar a yearly stipend of 4 0 0

Parish of Polton.

	<i>£.</i>	<i>s.</i>	<i>d.</i>
The farm of the manor of Polton	2	0	0
The rents in assize	1	11	0 $\frac{1}{2}$
	<hr/>	<hr/>	<hr/>
	3	11	0 $\frac{1}{2}$

Appledore and Walgea.

	<i>£.</i>	<i>s.</i>	<i>d.</i>
The lands	12	10	1½
The rectory	6	0	0
	<u>18</u>	<u>10</u>	<u>1½</u>

Parish of Charlton.

	<i>£.</i>	<i>s.</i>	<i>d.</i>
The manor of Barton	6	13	4
The mill	5	0	0
	<u>11</u>	<u>13</u>	<u>4</u>
Rents in assize at Brandred.....	3	7	0
Ditto in Canterbury and Cockering.....	1	11	2
Ditto in Northwood	0	14	2
Ditto in Deal	11	17	1
	<u>29</u>	<u>2</u>	<u>9½</u>

Dover.

	<i>£.</i>	<i>s.</i>	<i>d.</i>
Rents and a farm at Dover	11	2	0
Diverse meadows near Dover	1	17	0
Rents in Biggin ward	0	6	8
Rents in Dover	0	4	0
A meadow in Dover	0	8	0
Demesne Lands of the Priory	1	13	4
Tithes in Sibberton, Buckland, and Dover	2	0	0
Diverse meadows in Wingham	0	3	4
Tithes called Bustard and Kite	2	0	0
The Rectory of Ebstone	4	0	0
	<u>23</u>	<u>15</u>	<u>0</u>

The Suffragan Bishops of Dover.

A suffragan bishop, was a person appointed to assist the archbishops and bishops, in their provinces, in case of age, sickness, or any bodily infirmity.

By a decree in the time of Becket, the suffragan bishops, in the diocese of Canterbury, were to be consecrated in the metropolitan church, and they were to profess obedience to their diocesan. This decree might be dispensed with upon petition, and a licence from the chapter, under their official seal, for the consecration to be at another place.

The first time that Dover gave this title, was in the twenty-sixth year of the reign of Henry the Eighth. It was then enacted, that such archbishops and bishops, as were desirous of having suffragans, were to name two spiritual persons, learned, honest, and discreet, and of good conversation, for the King to make choice of one of them.

The person approved of by the King was consecrated, but he derived all his power from his diocesan. He could not receive any emoluments belonging to the archbishop, but he could hold two benefices, with cure, to enable him to support his dignity.

Archbishop Cranmer, A. D. 1537, nominated Richard Yngworth, prior of Longley Regis; and John Codenham, both doctors of divinity, to be his suffragans. The King approved the first; and sent him, by letters patent under the great seal, to be consecrated, and he was to act during the pleasure of his diocesan; and his power was limited to the diocese of Canterbury, Calais, and the Marches.

Richard Thornden succeeded, A. D. 1543. He was nominated by Cranmer, but he joined with his enemies against him, in matters which affected his life. He was one of those, whose pliant principles could bend easily to his interest.

Thornden was the first who said mass at Dover, in the reign of Queen Mary. He was vice-dean of Canterbury; and, in the absence of doctor Wotton, did the same in the cathedral church. This tended

to bring disgrace on the archbishop ; but he vindicated himself, in a letter to a friend, and said, “ Thornden is a false, flattering and lying man.”

Queen Mary repealed the act for suffragan bishops, and they assumed foreign titles again. Thornden was a zealous friend to the catholic cause ; and it is said, that he condemned John Frankys, the rector of Rolvenden, for favoring the reformation. He died soon after this act, and was buried at Canterbury.

Thomas of Chilham succeeded, A. D. 1557, but he took a foreign title.

Richard Rogers, doctor in divinity, and archdeacon of St. Asaph, was the next in the list, A. D. 1559, and he continued in office under the archbishops Parker, Grindal, and Whitgift.

After Queen Elizabeth renewed the act of Henry the Eighth, he assumed the title of Dover. He was rector of Great Chart, master of East-bridge hospital, and appointed dean of Canterbury, A. D. 1584. With him the title of suffragan bishop of Dover terminated, in the year 1597, and he was buried in the dean’s chapel.

He had the character of a pious, upright, and just person. In a letter to Thomas Diggs, Esq. he complained of the conduct of Roger Manwood, chief baron of the King’s Bench, for procuring the pardon of one Collard, a rich person at Canterbury, who, in the street, wilfully murdered a poor man.

The Franchise belonging to the Collegiate Church, and the Priory.

The high veneration which our Saxon ancestors entertained for places of religious worship, might induce them to prefer churches, and monasteries, to cities, as set apart by Moses for places of refuge. This practice was necessary in the infant state of society, as it was the means of preserving the lives of many persons from the immediate resentment of the haughty eldormen and great barons, who were too much accustomed to revenge their supposed wrongs, without waiting

for the sentence of a court of justice. While superstitious veneration was held for consecrated ground, the law protected every person, who fled to the church for sanctuary ; and excommunication was pronounced against those who invaded the privilege, and took away, by force, any sanctuary man from the altar. The peace of the church was not to be violated, at that time, even by Kings ; and some of them were obliged to restore those, whom they had forcibly taken away from their sanctuary, before the expiration of their time. In the laws of King Ina, it is said, “ If any person hath committed a capital offence, and he flee to the church, he shall preserve his life, and make satisfaction as right requireth.”

Though the fugitive was protected in his sanctuary from the first impulse of passion, he was not screened from the hand of justice, nor from making a legal recompence. If the charter of Edward the Confessor to Saint Peter’s, Westminster, may be deemed authentic, that church was an asylum for all kinds of aggressors of the law ; and even lands, goods, and chattles, were taken into protection.

But whether that charter be spurious or not, the drawer of it was certainly acquainted with the practice of the times in which he lived ; and the Duke of Normandy continued the same, after he had obtained the crown. When he founded his abbey at Battle, he granted it the privilege of an asylum, even for felons and murderers.

The limits, and the penalty, for violating sanctuary, differed, according to the opinion that was entertained of the sacredness of the place.¹ The common boundaries, from the walls of a parish church, were thirty paces, and from a cathedral forty ; but from some rich religious houses, they were nearly a mile in circumference ; and for taking a person from them, the fine was five pounds.²

¹ Stow’s Survey, p. 114.—Camden’s Sussex.—Wilkins’ Canons.

² Leland’s Col. vol. 2, p. 390.—Johnson’s Col. of Canons, A. D. 1563.

Criminals were not to be interrupted when seeking sanctuary ; and when they arrived, they were to inform the coroner, or the magistrate, what crime they had committed ; and if they would not confess their felony, they were led beyond the limits of safety. If they acknowledged their guilt, it was recorded, and their goods were seized by the bailiff for the King's use.

They might then remain twelve days in the church ; but they were obliged to abjure the kingdom within forty, before the coroner, on the church-yard stile. When there was only one felon,¹ he laid his hand upon the book, and said, " I A. B. a thief, have stolen certain things, and I am the King's felon, and I have done many evil deeds and felonies in this realm, and I do abjure and forswear the land of the King of England ; and I will haste myself to the port of D, which is of my own chusing ; neither will I go out of the way ; and if I do, I am content to be taken as the King's thief. I will not tarry at my port after my arrival, more than one ebb and flood, if I can have passage ; and if I cannot, I will go into the sea every day, up to my knees and higher, crying passage for the love of God, and in the name of the King, and for their sakes. If I cannot get passage, I will return again to this church, as the King's felon, &c."

The Ecclesiastical Fair.

² The custom of having markets, or fairs, at stated times, is of high antiquity ; and the days of holding them were generally when the people assembled, to commemorate the laying the foundation of a church, or a temple, or the surrounding the town with a wall. Such festivals were frequently attended with a large concourse of people, of both sexes ; and the merchants who had their goods to dispose of, soon discovered, that such joyous meetings were the best times to expose them to sale.

¹ Sanderson's Antiquities of Durham Abbey, p. 43. — Customal Winchelsea.—Antiq. Rep. p. 78.

² Customals of Dover, Rye, and Romney. ³ Spelman's Works.

The Jews kept the feast of the dedication of the temple, in the court of the Gentiles ; and there they found persons who sold oxen, and sheep, and doves : and every one who was desirous of making their offering, might be accommodated upon the spot, without searching the city for what they wanted.

This was a great convenience to strangers ; and this might probably give the first hint to Christians, for holding fairs within the precincts of religious houses.

By knowing the day any ecclesiastical fair is kept, the name of the saint to whom the church was dedicated may be also known. When the saint stood high in the estimation of the people, they generally assembled in large numbers on the vigil of his festival. This encouraged the bishops, abbots, and priors, to apply to the King for charters, for holding fairs within the precincts of their cathedrals or monastic walls. The rigid laws of the Saxons respecting fairs required every transaction to be in the presence of witnesses, and fairs were peculiarly adapted for their purpose. It was enacted, by Lothaire, King of Kent, that no persons should barter, excepting in the presence of a credible witness, such as the sheriff, the mass priest, the lord of the manor, or some person of unquestionable veracity, under the penalty of thirty shillings, and the forfeiture of the property to the superior, in whose jurisdiction the transaction took place.

This was done to ascertain all bargains, and contracts, upon the best testimony they could get ; for as there were but few to record a transaction, it would have been difficult to have settled disputes between contending parties. As the King had a fine upon every thing sold, above the value of twenty pence, it was necessary that all bargains should be made in certain fixed places, for the King's bailiffs to collect his dues.

* Dugdale's Warwickshire, p. 176.

Every precaution was taken to keep up the reputation of the ecclesiastical fairs, by preventing theft and impositions; and the dealers were sure, that they could expose their goods to sale, with the greatest safety, within the walls of a religious house. To prevent frauds, it was common for the monks to swear all persons at the gates, who came to traffick, before they entered.

As the people frequently came in parties from their tithings and boroughs, they could be pledges for each other, that they had purchased their goods at the fair, and this exempted them from suspicion or trouble.

These precautions have been thought by some, to have been the artful contrivances of the monks, to raise the reputation of their fair, and to increase the revenue of their respective houses.

Their proceedings may favor the supposition, but they were peculiarly adapted to the custom of the times; for while the people were from home, discharging their religious duties, they could supply their temporal wants, and be pledges for each other.

The Benedictines of this place had their fair confirmed to them by Henry the Second, and they enjoyed the privilege until the dissolution of their house; but at a much earlier period, it was found necessary to separate that intimate connection, which had so long subsisted between religion and commerce.

The assembling of so many people, of both sexes, on the vigil of the festival of a favorite saint, was found to have a direct tendency to corrupt their morals. In an old manuscript legend it is remarked, that the vigils of the festivals were from the beginning of holy church; and that the people assembled with lighted candles, to perform their devotions during the night; and this they called a wake. In time this practice led them to singing and dancing, to piping and harping, to sin and drunkenness. Reverend fathers seeing this, forbid them keeping the beginning of the festivals in the evening, and ordered them to fast; and this was afterwards called vigila, or waking

As early as the reign of Edward the First, it was forbidden to hold fairs, and markets, in church-yards; and as many irregularities had taken deep root, it was thought prudent to check them by statute. It was therefore enacted, that all sheriffs, and lords, holding fairs by charter, should proclaim, at the beginning, how long they were to continue, and if they were held any longer, they were to forfeit their privilege; and the merchants for selling beyond the time, were to be punished at the King's pleasure.

As the statute was found insufficient to counteract old customs, it was again enacted,¹ that a trader should lose his booth, and forfeit double the value of the things sold, for acting contrary to the law.

² Every lord of a franchise, who had the privilege of having a fair, might hold a court of piepoudre, for taking cognizance of all manner of contracts, trespasses, debts, and misdemeanours, during the fair, and within the time it ought to be continued. Every cause was to be heard publicly, and justice done between the ebbing and flowing of the tide.

This privilege, in time, was grossly abused, by bailiffs and stewards, and their subordinate officers, to promote their own interests; and they frequently interfered in matters which did not belong to them.

After every expedient had been tried to correct the abuses which time had established, it was determined, that ecclesiastical fairs should not be held any longer on the sabbath day. In the preamble to the statute, which was passed for this purpose, it may be seen in what high estimation the King, and his spiritual and temporal lords, and the commons, held the saints at that time. They considered them as aiders, and assisters, in all their necessities, and that they ought not to displease them with such detestable practices on the sabbath; and it was determined, that fairs should no longer be kept on Sunday;

¹ Stat. 2 Edw. 3, c. 15.

² Bracton's Piepoudre.

but either three days before, or three days after, by making proclamation of their intention to the people. After the reformation, the saints lost much of that veneration which had been paid to them, and fairs were again held on festivals.

Charles the Second granted the ecclesiastical fair to the mayor, jurats, and commonalty of Dover, and it was to begin on the eleventh of November, and to continue three market days, according to ancient custom, and to be kept in the town ; by which it appears, that it was held, prior to his time, in the precincts of the priory.

He granted another fair, to be held twice in every year, for cattle, on the twenty-third and twenty-fourth days of April, and on the twenty-fifth and twenty-sixth days of September, for ever ; unless either of them fell on a Sunday, and then the fair was to be held on Monday. He also granted to them piccage, tallage, and toll, and all other profits arising from the fair.

As Henry the Eighth granted to the archbishop of Canterbury the priory, with all lands, privileges, and emoluments, which had been enjoyed by the Benedictines, it may be thought that the King was liberal, at the expence of the archbishops ; as they continued to demise, and let to their tenants, the three ecclesiastical fairs of Saint Martin, Saint Bartholomew, and Saint Margaret ; but they have lost all the profits arising from them.

The King also gave to the mayor and commonalty the privilege of holding a court of piepoudre, during the fair, if it did not diminish his revenue, nor injure any of his fairs or markets. He was liberal, if he could do it without expence to himself.

CHAP. VI.

The parish church of Saint Mary the Virgin. Its antiquity. When, and by whom built. Belonged to the canons of the collegiate church. Taken from them. In possession of the crown. The society at the Maison Dieu had the impropriation some time. Information from the churchwardens' accounts. The inhabitants obtain the church of the King. The inside described. Magistrates' seats. Elections. Historical memorials of the ministers. Armorial bearings.

The parish church of Saint Mary may be considered as one of the three religious edifices, built by the secular canons of the collegiate-church, towards the close of the reign of our Saxon Kings.

Though time has swepted away the records of the foundation of this ancient structure, the bases, columns, capitals, and arches, are all striking proofs, that they were either designed and executed by Saxon architects, or they were close imitations of their buildings intended for religious worship.¹ Plainness and simplicity, solidity and strength, are the leading features observable in churches, built prior to the eleventh century, and they are the principal points to be observed in this church.

The tower fronting Biggin-street, bears evident marks of its antiquity; and if the workmanship be not a demonstrative, it is a strong

¹ In the year 1804, two arches were turned into one, and a very large column was taken away.

presumptive proof of it. The entrance into the church, through the tower, is a low semicircular arched door-way, which has been disfigured by a modern frontispiece. The roof of the building is supported by two rows of massive pillars, some round, and others of a parallelogramic form, with demi-columns at each side, and they vary in their circumference, from six feet to fifteen. There is a considerable variation in the bases, capitals, and columns, as well as in the width of the arches. In the original state of the church, the distances between the pillars, were from seven to thirteen feet; and the arches dropped towards the west end, like the arches from the centre of a bridge.

The capitals of two of the columns were slightly ornamented with Saxon feuillage, and others with an indented stone, or only a bead. The two arches at the east end of the church, are a deviation from the semicircle, and the columns which support them are slight, when compared with the other; but there is very little proportion between the base, the shaft, and the capital of them.

The arches at the entrance on the south side, were originally a small departure from the semicircle; but one of them has been altered in our time.

The antiquary may object to the supposed age of this building, as the arches are not all semicircular; and authors of credit have thought, that the first departure from the semicircular arch in England, was by the Norman architects; but it may be very difficult to prove it.

The blunt-pointed arch was used in the oldest remaining ruins in this town, and also in this church; and it has been said, that palaces, with sharp pointed arches, were built in Italy in the ninth and tenth centuries. There is a Roman elliptic arch, which supports a bridge at Catalonia, in Spain. If pointed arches were the invention of the

* Geat. Mag. Sept. 1801, p. 791.

Normans, what people built the palace of Charles the Great, with arches deviating from a semicircle? By the stile of the architecture, and other collateral proofs, there can be but little doubt of the antiquity of this church, and that it has a Saxon origin.

The canons had it entirely under their jurisdiction, and they received all fees and emoluments; but they provided the mass priest, and paid the deacon, and the sub-deacon.

The church was taken from the canons, by William, the son of Ageri, with the cognizance of Odo, the bishop of Baieaux, warden of the Cinque Ports.

It afterwards came to the crown, for in the reign of King John it was in his gift. In the eighth year of the reign of Henry the Second, the abbot of Pontinex had the appropriation, and it was then valued at five pounds six shillings and eight-pence.

The society of the Maison Dieu claimed it after them; for by a will proved in the archbishop's court, they were to find a priest to say mass in it for ever. Sir John Thompson, the master of the Maison Dieu at the suppression of the house, returned the value of it six pounds to the society. They allowed the officiating priest a small gratuity for the bede roll, and grace, and for his attendance on the different festivals, and at mass.

The receipts in the churchwardens accounts, for the year 1537, mention the rents of two or three tenements, and the land belonging to the church. By their disbursements it appears, that the ceremonies of the papists were performed here, after the suppression of the priory. They paid,

	£. s. d.
For meat and drink, at setting up the Paschal at Easter	0 0 4
At striking the Paschal taper, for the procession, for the angels, the font taper, and for the Judas candle	0 2 0
For seven pounds of wax for the tapers	0 3 6
For two priests helping to shrine at Easter	0 2 0

For two persons watching the sepulchre.....	0	1	4
For the great mass priest, deacon, and sub-deacon, and porter, each two-pence	0	0	8
For bread and drink for the priest, clerk, and ringers.	0	0	6
For an iron placed before the sacrament.....	0	5	4
For putting it up, and taking it down	0	1	0
For grace, obit, vespers, wax, dirge masses, and offering peace, according to custom.....	0	4	2
The clerk, for his dirge and grace	0	0	6

Several of the articles, mentioned in the foregoing accounts, were continued to be paid in the year 1545, which shews that they were more eager after the riches of the monasteries, than in reforming the errors of the people.

When the commissioners seized on the priory, they omitted to plunder this church; and when the King visited Dover the following year, he ordered it to be sealed up; and the churchwardens paid five shillings to the persons who did it; but the inhabitants continued to pay the same fees to another priest.

As the King, in general, reserved all rectories and vicarages to himself, which had belonged to religious houses, this church remained in the crown; and the inhabitants petitioned to have it for a place of worship. As the tithes were too inconsiderable to attract the notice of the King, he granted their request. They took possession, and, without any scruple, they followed the example which had been set them by their superiors, by selling every thing valuable to the best bidder.

	L. s. d.
They found 108 ounces of silver, which brought them	31 18 4
The vestments of the priests, which consisted of one suit of blue velvet, excepting the cope; one suit of black velvet, and one of crimson, which sold for	19 5 0
Organ pipe metal, 52 pounds.....	1 2 0
A chalice, weighing 32 ounces, sold to Mr. Foxley, and he paid in part	2 6 4

	£.	s.	d.
Lattice metal, 52 pounds, and old glass.....	0	5	0
Timber	0	1	8
Easter offerings.....	3	7	8
Rent of church lands.....	1	4	0
An old vestment	0	6	8
Old lead	1	0	0
At keeping the anniversary of the patroness of the church, the inhabitants contributed.....	2	8	9
Of John Shaw	0	4	0

It appears by the churchwardens accounts, A. D. 1550, that with the foregoing sums they undertook to repair, alter, and beautify their church, by pulling down several altars, and images, by taking the stalls out of the choir; and were at the expence of sending for a painter from London, to write scripture sentences on the walls.

They left several articles found in the church, unsold; which were valued by John Boulle, as follows:—

	£.	s.	d.
A red and blue velvet cope, with gold borders	5	0	0
A red and tinsel cope, and twelve red and green sars- net curtains.....	0	18	0
A crimson velvet border, with gold letters.....	0	5	0
The front of an altar, red sarsnet.....	0	10	0
Four yards of white silk.....	0	8	0
Several old vestments.....	1	8	7

The inhabitants had not long been settled in their reformed mode of worship, before they were called on, in the high tone of authority, to provide again for their ancient ceremonies. On the accession of Queen Mary to the throne, the churchwardens were obliged to procure a mass-book, candlesticks, tapers for different festivals, a pix, a cross, a holy loaf, and hallowed fire, and to pay for setting up, and watching the sepulchre at Easter, which cost them between two and three pounds.

This sudden change in their religious worship caused considerable confusion at this place ; as the married priests were dismissed from their duty, and it was found difficult to procure others to succeed them.

In a few years there was another strange innovation. As their minds were enlightened with the knowledge of the scriptures, their reverence for their place of worship decreased, and they soon introduced the electing of their mayor, and their representatives in parliament, not only in their church, but at the communion table. This was first done in the year 1585 ; and while the freemen were few in number, and the magistrates could return whom they pleased, the business was soon over, and it might not be productive of any great evil ; but if we once step over the bounds of decency and good order, innovation opens the door to many excesses, and time carries them forward, regardless of every consequence.

When a seat in the great council of the nation was discovered to be the path to honor and emolument, it was then thought worth while to risk the squandering of a fortune to gain the prize. Corruption and perjury, intemperance and quarrels, forced their way to the altar, and produced such scenes of riot and confusion, that they were obliged to separate the parties, by a high partition in the church.

Every disinterested and serious person, reflecting on the evil, wished to have elections removed out of the church. A bill was twice brought in to the house of commons for this purpose ; but it was opposed by the corporation of this town, and, at that time, this was sufficient to have it rejected, though there was not a place in the kingdom, where elections were held in churches, that opposed it ; and many who were applied to, wished it success, as they thought, the practice (to say no more of it) highly indecent.

Sir Charles Bunbury had the honor of opposing the bill ; and he said, " I have been told, that at Dover, some persons have complained of elections being held in churches ; but are legislators to listen to a single town, unconfirmed by united, and repeated testimonies and evi-

dences ; and to me the indecencies, and the evils complained of, appear very ideal. Sir, our pious and rational ancestors, contented themselves with this mode of election ; why then are we to put counties and boroughs to the great expence they must necessarily be at, if this bill should pass into a law ? nor can I see why the electors themselves should not meet in a church, when we, the elected, meet in a chapel."

Mr. Ongly said, " The evils complained of were notoriously great ; and he was told by alderman Sawbridge, of the perjuries committed at the communion table ; of the bribes thrown down upon it, by such as refused to take the oath ; as well as the blasphemy, drunkenness, and other diabolical practices, repeated from day to day, during an election ; all which our pious, sober, and rational ancestors, were unacquainted with."

No reply was made ; and, upon a division, the bill was lost ; ayes 33—noes 72.

Several alterations have been made, from time to time, in this church, since it was first fitted up for a protestant congregation. It is now without chapel, chancel, or altar, and pews and galleries occupy the whole area of the building, excepting the necessary spaces. Several new windows have been added, for the admission of light ; but as every workman has been left to follow his own fancy, there is no uniformity in the workmanship.

The first thing that strikes the attention of a stranger, on his entering this church in service time, is seeing the mayor placed at the east end, where the altar ought to be, and above the communion table, and the magistrates on the right and left hand of him.

The first record of a seat being fitted up for the mayor, and for several magistrates, and others, was about the year 1676. It was then ordered in vestry, that a pew should be made, in the middle of the gallery, on the north side of the church, for the governor of Dover Castle, the mayor, and several of his brethren, and others, at the expense of colonel Stroude, and Walter Braems, esquire.

This seat did not long satisfy the members of the corporation, who were attached to the presbyterian mode of worship; and they wished, as the elders of the congregation, to be more conspicuously placed; and they took away the altar, and placed the magisterial chair where it stood, above the communion table.

This step highly offended that part of the congregation which was of the establishment from principle, and colonel Stroude refused to sit with them, and he applied to the churchwardens to provide him another seat. Edward Roberts, and Nathaniel Denew, the churchwardens, A. D. 1683, cited the mayor, and his brethren, to appear in the consistory court at Canterbury, and alledged, that there are certain seats, or pews, placed at the east end of the chancel of the said church, and other seats set up in the said chancel, which render the place, where the communion table now standeth, too narrow for the reception of the minister, and the communicants, in the time of the administration of the sacrament; that the seats at the east end of the chancel do not properly belong to any particular person; and that the magistrates ought to be removed to some more convenient and decent place in the church, or chancel. They pleaded, that his Majesty, Charles the Second, came into the church, to hear divine service, and he expressed his dislike of any person sitting at the east end of the chancel; and he ordered the doors of the said pews to be nailed up, and it was some time before the seats were used again.

Wherefore they prayed the said judge, that he would grant them licence to remove, and take away, the several seats standing at the east end of the chancel; and that they might place the communion table more conveniently and commodiously, for the minister and parishioners to communicate.

The judge, upon this application, did decree letters proclamatory to be sent out, to be published in the church of Saint Mary the Virgin, in Dover, on the Lord's day next preceding the tenth day of May, in divine service, that all persons pretending a right or interest

in the said seats, might appear on the tenth day of May, in the consistory court of Canterbury, between the hours of nine and eleven of the clock in the forenoon, to shew sufficient cause, if they had any, and thought it their interest to do so, why the said seats might not be removed, and taken away, and the magistrates placed in some other seat, or seats, in the said church.

At the time appointed, appeared Nicholas Cullen, the mayor of Dover, William Stokes, William Richards, John Bullock, Thomas Scott, William Bax, Edward Franklin, and Edward Wivell, jurats of the town of Dover, and pleaded, that the seats standing at the east end of the chancel of the said church, and now moved to be taken away, are very ancient seats, which, time out of mind, were used by the mayor and jurats of the town, for the time being, and where they usually sat to hear divine service, and sermon, and they had a special right and interest in the said seats; and the proctor prayed, that he might have a competent time assigned him to propound, and shew his clients' right and interest. This was granted, until the month of September, when the court met to examine witnesses. Upton, the proctor for the churchwardens, alleged, that there is a convenient place, at the north side of the said chancel, for the use of the mayor and jurats of the said town to sit, and hear divine service, and sermon, which might contain at least fourteen or sixteen persons, with more convenience and decency; and that they were ready, and willing, to erect such seats forthwith. And they further alleged, that the right of placing, and displacing, the parishioners in the church and chancel, on seats, hath, from time to time, and time whereof the memory of man is not to the contrary, been vested in the churchwardens of the said parish, for the time being, and in no other persons; as they were ready, they proposed to prove their allegation immediately, by Richard Cooke, gentleman, of the parish of Saint James, in Dover; Aaron Wellard, Warham Jemmit, and Samuel Lucas, gentlemen, and jurats of the said town.

Samuel Lucas deposed, that he had been a parishioner in the parish of Saint Mary, before his Majesty's restoration, and for divers years since; and that about fourteen years ago, the King happening to be at Dover for several days, when the deponent was one of the churchwardens, Mr. Dupper, who was then a servant belonging to the green-cloth, and some other gentlemen, came to this deponent, he being one of the churchwardens, to know what convenient seats there were in the church, to place his Majesty, and his attendants; and that this deponent went with Mr. Dupper, and the other gentlemen, to Saint Mary's church, and shewed them where the mayor and jurats sat, supposing that seat the most convenient for his Majesty. The said Mr. Dupper, and the other gentlemen with him, declared, that his Majesty would by no means sit above the communion table; and that it was an indecent and irreverent thing, in his opinion, for the mayor and jurats to be there placed; and that his Majesty was placed in another seat in the said church, and the mayor and jurats did, for that time, forbear sitting in the said seats, above the communion table. And he further deposed, that during all the aforesaid time, he had known the right of placing, and displacing, the parishioners, both in the church and the chancel, to have been in the churchwardens for the time being; and that about seven years since, this deponent's wife was seated in that church, by the churchwardens for the time being. And further, that in the time of the late rebellion, Mr. Nicholas Cullen, the present reputed mayor, was one of the churchwardens of that parish, and did, upon this deponent's knowledge, place one person, a parishioner, in a seat in that church.

Aaron Wedder deposed, that he had been a housekeeper, in the parish of Saint Mary, thirty-four or thirty-five years, and hath, for all that time, known, that the churchwardens, for the time being, usually placed, and displaced, the parishioners in the church, as there was occasion, and they also claimed a right and privilege so to do. That he himself had been churchwarden for years, and did himself, during that time, place such parishioners in seats, as occasion required.

Warham Jemmit deposed, that he had, for twenty years last past, known, that the churchwardens, for the time being, had claimed a right to place, and displace, the parishioners in their seats in the church. That the governor of Dover Castle did usually sit upon the right hand of the mayor of Dover, in the seats placed above the communion table; but disliking the sitting in that situation, he, the said governor, was, upon application to this deponent, during the time he was churchwarden of Saint Mary's parish, placed in another seat in the said church.

Samuel Lucas also deposed, that he had known, for the space of thirty-five or thirty-six years passed, that the churchwardens, for the time being, had seated, and displaced, divers of the parishioners, and had always claimed the right so to do.

From the proofs produced by the churchwardens, it was decreed, that the exclusive use of the seats could not be assigned to the corporation; and a licence was granted to the churchwardens, to remove the seats above the communion table, to the north side of the chanccl, or to some other convenient place in the church, and to place the communion table at the east end; and if the proctor for the corporation dissented, he might seek redress in the court of arches in London.

The churchwardens, having obtained the licence, or faculty, they fitted up seats for the mayor and jurats in another part of the church, and placed the communion table at the east end of the chancel.

This act of removing the seats from the altar, was considered by the magistrates as lessening their dignity in the face of the congregation, and lowering them in the eyes of the people, as much as they exalted themselves above them in their own minds; and though they were afraid to oppose the authority of the King, while he was living, they took an early opportunity, after his death, to spurn at his notions of decency and reverence to be observed in places of public worship; and they disregarded the authority of the ecclesiastical court.

In the year 1688 a vestry was called, and there were present six jurats, and two or three other persons, who ordered, that the magistrates seats should be replaced at the east end of the chancel, where they formerly stood, at the expence of the parish. This was accordingly done; but by another order of vestry, A. D. 1689, they directed, that the churchwardens should pay immediately to the mayor, the sum of seven pounds fourteen shillings and eleven pence, being the sum he had advanced for removing the seats. This is a positive proof, that the churchwardens had removed them, under the authority of the court, and that they were removed back again by the magistrates, in defiance of the decree.

Mister Mayor, and his brethren, considered themselves now fixed in the highest seats in the synagogue, and they had but little to fear, at that time, of any further interruption from the people; but in less than a year, there was a difference between them, and the minister of the parish, and he threatened to libel them in the consistory court at Canterbury, for removing the communion table, and replacing the magisterial chair at the altar. This alarmed the jurats; for they knew that they had acted in defiance of the authority of the court, and they had nothing to expect but ecclesiastical censures.

As they wished to prevent any further proceedings, and fearing they might involve themselves in expence, they had another vestry in April, A. D. 1689; where they appointed the magistrates, or any four of them, to treat with the minister, upon the subject of their removing the seats. It appears that they could not come to any determination; for on the following Sunday, it was resolved at a vestry, "Whereas the parishioners are informed, that a complaint has been made at Canterbury, for removing the magistrates and common councilmens seats to the places where they now stand, and anciently stood; it is therefore now ordered, that if any new citation should be issued, or suit commenced, against the present churchwardens, or any of the parishioners,

for removing the seats, and the communion table, all the expences shall be paid by the parish."

As the majority of the magistrates composed this vestry, and they directed the churchwardens to apply the public money, to save their own, Mister Lodwick was incapable, for the want of means, to put his threats in execution. This terminated the contest respecting the removing of the seats; and the mayor, jurats, and their successors, continued to sit at the altar, until they concluded, that time had given them a legal right, to what they had so illegally obtained. A corporate body can always find a peg, or make one, on which they can hang a prescription whenever they wish it; and notwithstanding there were the orders of vestry, and the faculty, existing, and in good preservation, they placed locks upon the doors of the pews of the magistrates, the common councilmen, and on the gate in the rail, and locked up the communion table, in the year 1804; and they determined to maintain an exclusive right by law.

This deprived many persons of seats, who had been accustomed to sit with the magistrates, and the common councilmen, and some of them left the church, and others would have done it, if an alteration had not been made.

In the year 1805, there was an order of vestry, for new fronting the pews in the middle aisle, and for making them all uniform; and the magistrates and common councilmens seats were included in this order.

Though they had taken this bold step, they seemed doubtful of an exclusive right; and they gave a key to the churchwardens, for the beadle to let in persons wanting seats.

As the gate in the rail, before the communion table, was locked up, and the minister had been impeded in the discharge of his duty, the churchwardens, when putting up new fronts to the magistrates pews, and a new rail before the communion table, ordered the carpenter not to put any lock on the gate in the rail, but to leave the

passage free to the table; and to take off the locks from the old doors, and to put them on the new ones with handles. This was considered by the mayor as an offence not to be forgiven; and the corporation resolved, that the mayor should article the churchwardens in the arches court in London, for removing the locks, without the consent of the ordinary; and the churchwardens were served with a citation, to answer for their conduct, that they might have their manners and morals reformed, for the good of their souls. The mayor intended to have corporal punishment inflicted if possible; but the ecclesiastical court had no such power.

The parishioners considered, that it always had been customary for the churchwardens to take off locks from the pew doors, when put on by individuals, and that they had always been applied to by those who wanted seats. There is reason to believe, that this practice has been continued from the reformation, or the first pewing of the church, and the custom could be proved, by existing records, far beyond the memory of any man living. This determined the parishioners to resist the mayor's proceedings in the ecclesiastical court.

As that court had no authority to try a custom, it was determined to remove the cause, by prohibition, as soon as an opportunity offered, to the King's Bench; but before the churchwardens replied to the mayor's articles, he died. The churchwardens then pleaded an abatement, as the cause in common law dies with the person, and they requested that it might be dismissed the court. At the hearing, the judge decreed against it; and he supported it with a precedent which did not apply, and another which was never determined. The counsel for the churchwardens were very much dissatisfied with the decree, and advised an appeal to the delegates; and at the same time to apply for an additional extention of their faculty, to remove the magistrates seats from the altar, and to replace the tables, containing the Lord's Prayer, the Belief, and the Ten Commandments, in their proper place.

As the first cause was now branched into three different suits, the proceedings became very expensive; and after expending about a thousand pounds, both parties were heartily sick of the business. There was no probability of any speedy determination, for the churchwardens had not examined any witnesses, and it would have been some time before either of the causes would have been heard.

When two opponents have spent their money at law, and found, that the raising any more will be attended with difficulty, they begin to think it will be prudent to lower their crests, and to consider of a reconciliation. This was the case in the present instance; for after they had squandered so large a sum, they both agreed to stop any further proceedings, and for each to pay their own expences. This ease ought to hold out a lesson to the rising age, not to suffer pride and folly to hurry them into such unprofitable expences, about a seat in the church, or the locking up of a pew; for after all, the best and most perfect person in the congregation, will be the greatest, in the sight of Him who sees the heart.

The method of electing, and providing for the Minister of this parish.

Before the suppression of religious houses, there were a rector, a curate, a deacon, and a sub-deacon; but in what manner they were paid, is now rather uncertain.

Sir Robert Long, or Yonge, as his name has been written, was the officiating minister, A. D. 1522; and he had sometimes a trifling gratuity from his parishioners, for a particular service. In the year 1547, they consented to find him an assistant, as age and infirmities had rendered old Sir Robert incapable of discharging the duties of his office.

An application was made in the same year, to the archbishop and commissary, for a priest to officiate, but it does not appear that they sent one.

The first upon record, after the death of Sir Robert, are Sir William, the rector; Sir John Cochran, deacon; Mr. Wood, curate; and Sir Thomas Brown, sub-deacon; who officiated on particular festivals; and they were paid separately for their grace, obit, and other ceremonies.

Sir Anthony Rogers had a salary of six pounds twelve shillings a year. He continued but a short time; for in the year 1549, Sir Monge Thornton was settled, with a salary of eight pounds a year, and thirteen shillings and four-pence for his chamber and bed.

It was in his time the altars and images were removed, and the plate sold, to pay the expence of ornamenting the church. He was an active reformer, but he soon removed from this place.

Sir Hane Caine had the title of preacher of Our Lady's church, A. D. 1551, with a salary of twenty marks, and the Easter book, or the oblations. The poverty of the parish, or their neglect in fulfilling their engagement, compelled him to leave the church the same year. Two rich copes were pawned, to pay what was due to him.

A. D. 1551, Sir Christopher James was engaged for the occasional duty, and for which he was to have the offerings at Easter, which amounted to one pound thirteen shillings and eight-pence. At the accession of Queen Mary, James was prosecuted for being a married man, and the church was without a priest; for Sir Andrew Pattenden came to sing on Palm Sunday evening, and on every evening until Easter week.

The inhabitants applied to the lord suffragan, for a priest, to administer the sacrament at Easter.

A. D. 1553, a Sir Jeffery was engaged, for a salary of ten pounds a year, and the Easter offerings, and the fees for christenings, marriages, and burials, and his bed and chamber rent. They gave him, at making this agreement, three-pence. He entered on the cure at Midsummer, and quitted it at Michaelmas.

The service of the church was very irregularly performed on the re-establishment of popery; for there was no officiating priest engaged until A. D. 1555, when Sir John Lambard came upon the same terms as James; but if his fees did not amount to five marks, the churchwardens were to make good the deficiency, which they did, by paying him eight shillings. Sir John continued until his death, which happened in the year 1558.

A Sir William, from London, succeeded him. About this time the clergy dropped the title of Sir, as he is the last who retained it.

The reverend Thomas Turpin was minister, from 1562, to 1573, and he was buried in the church.

Peter Joy was the next minister, and he probably died about the year 1587, as the archbishop sent a sequestration to the churchwardens.

Richard Pickering died about the year 1601, and was interred in the church.

Walter Richards succeeded, with a salary of thirty pounds a year; but he continued only a short time; for, in 1608, John Gray took the cure, and resigned in 1616.

The inhabitants had always been backward in raising money to pay their minister; but a circumstance happened, which gave the leading men of the vestry an opportunity of shewing their liberality to a chaplain of their warden. Edward Lord Zouch, of Harringworth, Constable of the Castle, came to Dover, A. D. 1616, and he brought with him the Rev. John Reading. The parish was, at that time, without a minister, and he did the duty several weeks, to oblige the parishioners; and they requested him to accept the cure, with a stipend of one hundred pounds a year.

He was, at first, very much approved of by the parishioners of that time. He had good connections, and was appointed chaplain to Charles the First; but it was no more his lot, than it was that of his royal master's, to live always in the sunshine of prosperity. He was

a person, whose principles were inflexibly fixed ; and he could not, like too many of his flock, change with the power which prevailed ; and he found himself as much disliked, as he had been approved of before, in the pulpit.

A change of opinion in his audience, and the prejudice of party, were sources from which he experienced many hardships and sufferings. In the year 1642, one Saunders, a military officer, from Northbourne, came and plundered his study, as he had before done to several other loyal gentlemen in the county.

In November, in the following year, while he was employed in his Paraphrase of the Gospel of Saint John, he was seized by a company of armed men, by the order of Sir Edward Boys, one of the parliament party, and hurried away to prison.

The King, hearing of the treatment he had received, procured for him, of archbishop Laud, the rectory of Chartham, and he was appointed a prebendary of Canterbury ; but it was some time before he could receive any emolument from his preferment.

Sir William Brockman gave him the living of Cheriton, A. D. 1644, and he was appointed, by the assembly of divines, one of the nine persons, to write annotations on the New Testament. But the frantic zeal of party pursued Mr. Reading in his sequestered retreat at Cheriton, and he was there seized, by the command of major Boys, and brought to Dover Castle, and the next day carried, with others, to Leeds Castle. During this confinement, he wrote his Guide to the Holy City. He gained his enlargement, by an order from a committee of gentlemen, who directed, that all his effects which had been taken away, should be restored to him. Major Boys was of a different opinion, and he refused to part with what he had got without money. On the tenth of May, 1650, Mr. Reading publicly disputed with Samuel Fisher, of the baptist persuasion, in Folkstone church, upon points, which could not afford much edification to their audience.

He was, in the opinion of many, a rigid Calvinist, and he opposed the doctrine of John Godwin, a lay teacher, who had preached in the church of Saint Mary, in Dover, during Mr. Reading's absence. He published several sermons, and controversial tracts, chiefly against anabaptists.

Mr. Reading was the first minister of this parish, who had a stipend of a hundred pounds a year. He died at Chertham, A D. 1667, and was buried in the chancel of the parish church.

After the imprisonment of Mr. Reading, the parliament and the parishioners reduced the salary to sixty pounds. Michael Porter was then minister, 1643. His friends considered this sum very inadequate to the duty ; and the Earl of Warwick addressed a letter to the mayor and jurats on the subject. This immediately produced the desired effect. It was ordered, that he should not only have the hundred pounds a year, but a quarter in advance, and all fees as received by his predecessor.

This church was filled with ministers in a very irregular manner, during the disordered state of the kingdom. John Dykes, from Tenterden, came in the year 1647, and he was followed by John Robotham, in 1652, who was probably sent by the house of commons ; for very soon after his arrival, a difference happened between him and the magistrates, and they applied again to parliament for another minister. Robotham was the first who agreed to preach two sermons every Sunday ; but as the churchwardens could not raise the money to pay him, this produced coldness, and then contentions and separation, for he quitted the church.

Nathaniel Northerross agreed to undertake a part of the duty, in the year 1653, for the voluntary subscriptions of the inhabitants ; but he did not continue above six months ; for in February, in the same year, colonel Kelsey, with several members of parliament, recommended Nathaniel Barry, who offered, by letter, to undertake the duty for half a year. It was about this time, that some of the leading men in

the vestry, first doubted of the power of their court of chancery, to enforce the payment of the church rate; and it was proposed, that a committee should be appointed, to apply to parliament for an act, to secure their privileges in directing the affairs of the church, and to compel the payment of the church rate.

Several members of the commons, to whom this petition was addressed, knew, by experience, that the ministers they had recommended, had not been paid as they ought to have been; and they sent them the following letter, instead of complying with their request.

"*To our loving friends, the parishioners of Saint Mary, Dover.*

" Gentlemen,

" Having seen your answer to our advice, relative to the settling the Rev. Nathaniel Barry, and dismissing Mr. Rotherham, we find it not so full, as we could wish; by reason of the deficiency of the payment of him. We therefore advise you, in future, that there be a good friendly agreement among yourselves; and that you pay the forty pounds you owe him, and in future improve your privilege of assessing yourselves. This we seriously council you to do, as it is, in our judgment, a good way to encourage the godly minister you now petition for, and to continue your privilege unquestioned. This will give you a good report among your friends here, and prevent any complaints of this nature. If any such again should be, they will have an effectual remedy. We shall not leave men loose to do, and pay, what they please to their respective ministers. Hoping you will well weigh this our friendly council, we rest,

" Your loving friends,

" Thomas Kelsey.

" John Boys.

" Aug. Rymer.

" Lambert Godfrey."

" Henry Oxenden.

This letter rather alarmed the committee, and, at the expiration of six months, they agreed with Mr. Barry, to give him one hundred

pounds yearly; and he was to do the duty, according to the order of the gospel.

This was probably the cant phrase of the day, while the republicans continued in power; for after the restoration, some of the same persons required, that the duty should be done according to the law of the realm.

In the year 1660, a committee was appointed to settle with their minister, not only at what time, but in what manner, he should administer the sacrament of the Lord's Supper, and also what catechism he should teach the children; and, if necessary, they were to adjourn from day to day, and report the result of each meeting to the parishioners.

As the restoration had caused such a change in the sentiments of Mr. Barry's congregation, and the difference was so great between them, he either quitted the church, or died about this time, as there were several ministers paid for doing the duty.

There was an interval of nearly two years, before another preacher was appointed; and it is probable, that Mr. Reading returned again to the church, as he was here, as speaker for the corporation, when the King landed.

Charles the Second embarked at the Hague, on Wednesday evening, the twenty-third day of May, and he was accompanied with twenty-five sail of good vessels; and on Friday, about two o'clock, he landed at Dover. General Monk, the Earl of Warwick, the Constable of Dover Castle, with divers other persons of distinction, were standing on the shore, with the mayor, and the corporate body, and the Rev. John Reading, with a rich canopy, ready to receive him.

As soon as the King placed his foot upon the beach, general Monk presented himself before him, on his knee, and kissed his hand; and he was embraced by his Sovereign; who declared what a high sense he entertained of his loyalty, and services, in being instrumental to his restoration. The Rev. John Reading then delivered a short speech,

in the name of the corporation, and they presented to the King a bible, with gold clasps. The people shouted, and the guns fired from the Castle. The King immediately left Dover, in a coach, with the Dukes of York and Gloucester; and when he came to Barham Downs, many troops of nobility and gentry were drawn up, commanded by the Duke of Buckingham, the Earls of Derby, Northampton, Winchester and Litchfield, and the Lord Viscount Mordaunt. There were also several regiments of foot, of the Kentish men.

The King, amidst the shoutings of a multitude of people, and the sounding of trumpets, rode up to each troop; and they bowed to him, and kissed the hilts of their swords.

After the restoration, the committee was instructed to proceed against Thomas Fidge, in the court of chancery for the Cinque Ports, who was their late register keeper, to compel him to deliver up the register to the parishioners. They probably failed in their attempt; for there is a large chasm in the register for that time, which never was filled up.

The Rev. Samuel Hinde, D. D. in 1662, undertook the duty, at a stipend of one hundred pounds a year; but he very soon experienced delays in the payment; and he hinted his intention of applying to parliament for a bill, to enforce the discharge of the salary of the minister. This alarmed the parishioners; and they authorized the mayor and jurats to employ counsel, not only to oppose him in his plan, but to procure an act of the legislature to secure their privileges; and to empower them to levy a rate, to discharge the necessary expences for the repairs of the church, and other purposes.

Whatever doctor Hinde had said, or done, it proved a continued source of trouble to him; and such dissensions followed, as were never appeased in his time. The neglect in paying on the one side, and an inclination to compel on the other, excited anger and disputes, and these dislike and rancour; until matters were pushed to such ex-

tremities, that the doctor either omitted the duty, or it was done by a substitute. It was four years before this evil could be brought to any crisis.

At a vestry, in the year 1666, it was declared, that the doctor had not done any duty for three months, and that he ought to be dismissed; and it was resolved, that he should be paid his arrears, and discharged, on the festival of Saint John the Baptist. Nine persons were appointed, and the mayor and the churchwardens, to meet and consider of some orthodox clergyman, and to report their proceedings to the parishioners. These measures served only to excite heat and animosity; for the churchwardens could not raise the money to pay the doctor, nor did he wish to go; and though necessity compelled them to live together, they did not learn to improve it to a virtue.

It appeared, in auditing the churchwardens accounts, in 1669, that all the money they had collected, in five quarters, would not pay the doctor's salary; and that they were increasing other debts, without any prospect of paying them. This made them resolve to reduce their minister's salary to seventy pounds a year, and the churchwardens were to deliver this resolution to the doctor, and he was either to accept or refuse it before Midsummer.

As the doctor did not give any decisive answer to the churchwardens, it was resolved in vestry, in 1670, that if he received the oblations at Easter, he should provide the bread and the wine for the communicants; but as this was contrary to the express letter of the rubrick, it was rejected.

About this time the doctor complained of their wanting to break their original agreement with him; and they consented to pay him to the full, if he would sign his resignation. Both parties seemed tired of opposing each other; and he resigned, on condition that he received forty-five pounds, and the mayor was to raise the money. When resentment is to be gratified, dispatch is quick in paying those debts, which justice solicits in vain.

The Rev. John Lodwick succeeded, but he was to have no more than eighty pounds a year, the Easter book, and the fees and emoluments which had been received by his predecessors ; and if he proposed leaving the parish, he was to give three months notice.

When this agreement was made, the corporation had the sole management of the church; and the removing the communion table, to place the mayor's chair at the altar, gave offence to Mr. Lodwick, and many of the respectable part of the congregation, and he attended with them at Easter to chuse churchwardens ; which practice he continued, until he left the parish. As he was the leading man in the opposition, they determined that he should quit his office, or that they would render it uncomfortable to him.

This agreement was laid before council, and they asked, if they could reduce his salary to sixty pounds a year. The complaints against him were, that he had neglected to catechise the children, and keep the register. The answer to the case is not known ; nor have I seen any record of the particulars, which rendered his situation uncomfortable ; but he gave notice, in 1693, of quitting the church at Michaelmas, and it was accepted. When the time arrived, the parish was too much in debt to pay him ; for in June, 1694, they paid him only twenty pounds, which were due to him in March, 1693, and they were considerably in arrears.

The parish clerk died in 1693, which produced another source of contention. The minister nominated one, and the parishioners another, and they both defended their nomination. This compelled them to appeal to the ordinary, and he determined in favor of the parishioners. Mr. Lodwick had wasted his time, and injured his health, in a fruitless dispute, which never could have been of any real advantage to him ; and the corporation being determined to direct the affairs of the church, without a competitor, they came to a resolution to dismiss him.

At a vestry, in 1698, it was resolved, ‘ Whereas the electing, continuing, and dismissing, the minister of this parish, is in, and of right

doth belong to, the inhabitants ; we, according to the custom time out of mind used in the said parish, do agree and order, that the Rev. John Lodwick shall be dismissed ; and we do declare his place vacant, and we order the churchwardens to acquaint him therewith."

The charges against him, if literally true, would have subjected him to ecclesiastical censures, and even suspension and dismissal ; for he was accused of refusing to read the communion service ; that he had not preached for six Sundays in succession, not on the fifth of November, though he had been frequently admonished in a friendly manner ; and that he had refused to keep the register.

The duty appears to have been omitted about the time of this complaint, and the prejudice of party had construed it into a wilful neglect ; but, in a letter addressed to the churchwardens, Mr. Lodwick said, that through his increased infirmities, he was no longer able to discharge the duties of his office, and he wished for an assistant.

The Rev. John Macqueane was appointed, and he was to succeed Mr. Lodwick at his death, which happened about three weeks after the agreement. This closed a contention, which had been continued through a long period of twenty years ; and perhaps the most partial advocate frequently saw sufficient reason to condemn both sides ; but where prejudices have taken deep root, it is but seldom that time renders men wise by experience.

The Rev. John Macqeane was appointed minister, in January, 1698, with the usual salary and emoluments ; but in the short space of two years, an alteration was proposed, which did but little credit either to the head or the heart of the mover of it.

The minister had long received what had been called the church offerings, as a small addition to his salary, when it was reduced from an hundred to eighty pounds a year. This commutation gift was ordered to be taken from the minister, and applied to diminishing the taxes. It was ordered in vestry, that the money given at the sacrament should be paid to the overseers, and applied to the relief of the

casual poor; and they were to account for the application of it to the mayor, in the same manner they did the poor's rate. This was a singular instance of the misapplication of alms. It was giving at the altar, to reclaim the gift, by lessening the parochial tax. The rent of twenty shillings a year for the church-yard, was the next taken from the minister; and in lieu of it, he was to receive the oblations, on Good Friday, Easter-day, and the Sunday following.

The Rev. John Macqueane was licenced by the archbishop, and settled here in 1698; and peace was restored to the church, which continued upwards of thirty years. He then found the infirmities of old age stealing very fast upon him; and, for his long and faithful services, the parishioners agreed to allow him ten pounds a year, towards paying for an assistant; but a difficulty started in appointing him; and, in the year 1728, the spirit of discord raised again its frightful aspect; and after so long a peace, it raged with renovated vigour.

It is very probable, but not certain, that Mr. Macqueane had provided a curate, who was not approved of by the inhabitants; and some altercations had taken place, relative to the right of agreeing with him, which, in the beginning, was in a train for an amicable adjustment; for, in the month of May, he addressed a letter to the mayor, jurats, and his other honest neighbours of the vestry.

"My kind and well-beloved parishioners,

"I came among you by the recommendation of the archbishop of Canterbury, and you received me with universal applause. I have lived among you these thirty years, in love and peace; and since I am not able to officiate in that station, as I formerly did, I am about to give you liberty, for peace sake, to chuse a curate to assist me; and I pray God to direct you in this matter, and whom you shall recommend, shall be agreeable to me."

"John Macqueane."

The Rev. William Nairne was appointed, with a salary of thirty pounds a year. The old man, for some cause now unknown, refused his assent to the terms. The curate, wishing to promote peace, offered him ten pounds more, which the churchwardens were to repay him. Five months were spent in a fruitless negotiation; and, in the month of December, threats were circulated to intimidate him, but his resolution was not to be shaken. This produced a vestry, and in which they declared the church vacant. This was the first time that such a bold step was attempted; but it was declared, "that they proceeded by powers and rights, which had been, time out of mind, in the parishioners; and the old minister was never to officiate in the church again."

The churchwardens, fearing that such an unprecedented proceeding might involve them in trouble, obtained an indemnification from the parishioners, for themselves, their heirs, and executors, from all expences in the ecclesiastical, or any other court. The Rev. William Nairne was the chosen minister. This step was the cause of an application to the archbishop, who considered the church canonically filled during the life of the minister Macqueane; and he issued a prohibition, to restrain Mr. Nairne from officiating in the church.

This alarmed the leading men in the vestry, and they applied to counsellor Crawford for advice; but his opinion proved very far from being satisfactory.

A doubtful and unfavorable opinion, on the legality of their proceedings, induced them to present a memorial to the archbishop, to inform him of the state of the parish. They recited the appointment of the Rev. John Macqueane, and of his being a licenced preacher under his grace's predecessor; but as he had not exhibited his licence, they therefore did not consider him as a licenced preacher, nor the church canonically filled. They said, that only a few of the parishioners would attend the service of the church, if he did the duty. They would not receive the sacrament from him, nor suffer him to baptize

their children, and that they had sixty unbaptized; and while some of the inhabitants went to the dissenting meeting, others idled away the sabbath, and many of them might never return to the church again. They concluded with saying, that every endeavour had been tried, to persuade him to comply with their terms; but that he was spirited up by ill-designing people, and would not agree to any reasonable proposal, unless he had sixty pounds, and security given for the payment.

After all this contention with an old man, to whom ten pounds a year might be absolutely necessary, it was settled, and probably by the advice of the archbishop, to allow him fifteen pounds quarterly, which he accepted, on condition of continuing minister, and officiating as often as he pleased.

The Rev. William Nairne resigned, and Mr. Macqueane lived but a short time after the termination of this unhappy dispute, to be either a burden, or a trouble to his parishioners.

In the year 1731, the Rev. William Byrch was appointed minister, on the same terms with his predecessors. In his time, the representatives of the town, and other gentlemen, purchased a house for the use of the minister, as it frequently happened, that he could not hire one in the parish. He continued minister until the year 1756, and went down to the grave, without having the evening of his days disturbed by contention.

The Rev. Thomas Edwards succeeded him, who died in a consumption, in 1772, and the Rev. John Lyon was appointed; who, after having discharged the duties of his office for thirty-four years, was very much disabled by a fall; and the parishioners, unsolicited, voted an assistant, with a salary of one hundred pounds a year. The Rev. William Wise was chosen assistant in 1806, who was succeeded by the Rev. John Maule, in 1812; and this memorial is intended to perpetuate this generous act, so long as these perishable materials shall remain.

Donations and Charities, given to the parish of Saint Mary the Virgin, in Dover.

Thomas Fisher, by will, proved A. D. 1482, gave a certain mes-
suage for masses, and six shillings and eight pence annually towards
the repairs of the church.

Thomas Toke, by will, proved A. D. 1484, gave seven acres of
land, at Dungate, under Windless Down, for the wardens to repair
the church. He was buried in Saint Catherine's chapel.

A piece of land, near Giles Combe, anciently called the Glebe,
now let by the wardens for the church.

Toke, by will, proved in the year 1509, gave two acres of land,
under Stepping Down, to maintain a light for ever before the *rode* of
the church.

William Smith, by will, proved A. D. 1522, gave two shillings
towards building the new chapel. Smith was buried in the chapel of
the Holy Trinity, near the altar dedicated to Saint Anthony.

There is also mentioned Saint Michael's, Saint Erasmus', and Our
Saviour's chapel.

Thomas Libbens, by will, proved A. D. 1527, gave towards the
cover over the font, three shillings and four pence; and for glazing
the window, in the chapel of Our Lady, six shillings and eight pence.
He was buried in Saint Loy's chapel, before the image of Saint
Thomas, of Canterbury.

Thomas Corrye, was buried in the year 1545, in Our Saviour's
chapel, and in his will he mentions a chapel belonging to Saint
Nicholas.

Joice Evering, by her will, proved A. D. 1635, gave fifty shil-
lings, to purchase a piece of plate for the communion service; but it
may be doubted if it was applied to that purpose.

In the year 1684, Anthony Percival gave two large silver flag-
gons, and George West, Esq. two silver plates, for the communion
service.

Charities left for the benefit of the poor of the parish of Saint Mary the Virgin in Dover, and when and how disposed of.

Thomas Pepper, left to the poor an annuity of twenty shillings, by will, dated 18th of March, 1573, to be distributed by the churchwardens; payable yearly out of the rent of land in the parish of Hougham, and late in the possession of George Stringer, Esq.

Thomas Elwood, left an annuity of twenty shillings, by will, dated the 3d of January, 1604, to be distributed by the churchwardens yearly; to be paid by the owner of a house, situated in Cannon-street, and now in the possession of captain Dell.

Thomas Challice, left an annuity of ten shillings, by will, dated the 31st day of January, 1613, to be distributed by the churchwardens in bread, at Christmas; payable from a house, situated in Biggin-street, called the Saracen's Head, now in the possession of John Jeken, Esq.

Jacob Windsor, by will, dated 16th July, 1669, gave one pound four shillings, to be distributed in bread yearly, on Christmas eve; the money payable from a house, in Bench-street, in the possession of Austin Stace.

Thomas White, by will, dated 1669, left two pounds, to be paid annually to four poor widows, ten shillings each, on New-year's-day. The annuity to be paid by the owner of the Shakespear, in Bench street.

Nicholas Cullen, merchant, left, by will, dated A. D. 1699, a small tenement, near the Fish market, for the use of the poor. The building has been taken down, and the ground let to Mr. Powell, a miller, on lease, at a yearly rent, which is applied to the use of the poor. He also left an annuity, to twenty poor widows, of thirteen shillings each; and he ordered six pounds to be paid out of the rents of the two houses on the victualling quay; and seven pounds from his lands in Romney Marsh, containing 51 acres 5 rods and 33 perches. These

lands would not, at that time, pay the incumbrances he left upon them; and the person who bought the fee of Cullen's heirs, and had a mortgage upon them, agreed, for a sum of money, to alienate the fee, in trust to the parish of Saint Mary the Virgin, in Dover, for the uses mentioned in Cullen's will. Though the mortgagee had a losing estate at that time, by the great rise in the value of land, the widows now receive yearly five pounds thirteen shillings and nine-pence each.

John Hewson, by will, dated the 24th February, 1692, left to poor widows the interest of twenty pounds. The parish took the principal, and allow twenty shillings interest, which is given in bread at Christmas.

William Richards, by will, dated the 19th August, 1701, left an annuity of five pounds, payable from the manor of Dudmanscombe, to be given to the poor, in equal proportions, on the following days, viz. Christmas-day, New-year's-day, Lady-day, Easter-day, Whitsun-day, Midsummer-day, and the first Sunday in every month.

Ann Jell, by will, dated the 24th September, 1719, left to eight widows two pounds, to be distributed yearly on New-year's-day, five shillings each. The money is payable from a house in Queen-street, in the possession of Mrs. Farbrace, and adjoining to Mr. Beck's.

Anthony Church, by will, dated the 3d May, 1709, left the interest of twenty pounds, to be given to poor widows, on Christmas-eve, in bread. The parish took the principal, and pay twenty shillings interest yearly.

Mark Wills, by will, dated the 4th November, 1664, left in trust for six poor widows, belonging to Dover, a cottage, and half an acre of land, at Waltham.

Ann Booth, by will, dated the 4th November, 1664, left one hundred pounds, to purchase lands, to be vested in trust, for the benefit of six poor widows, inhabitants of Dover. These fields were purchased in the parish of Whitfield; containing one acre, five acres, and four acres. The last trust, appointed about the year 1811, consists of

Messrs. George Dell, Thomas Russell, Michael Elwin, John Jeken, Henshaw Latham, and James Walker.

John Dekewer, left by will, dated 28th July, 1760, five hundred pounds; a part of the interest to be given in bread every Sunday, and the remainder in coals at Christmas; upon condition, that they kept in repair the tomb of Benjamin Devinke, and painting the iron railing once in three years. This sum was bought into the four per cents. which were afterwards reduced to three per cent. and the five hundred pounds now produce only fourteen pounds one shilling and eight-pence. From this charity are given eight loaves, of sixpence each, every Sunday, to as many poor widows, and the remainder in coals.

Susannah Hammond, left by will, dated the 10th June, 1767, an annuity of eighteen shillings, from a house; but this charity was taken away by the mortmain act.

Thomas Knott, left by will, to the minister of the parish, twenty shillings, to be given to forty widows, on Saint Thomas's-day, yearly. The annuity arises from a house at the new bridge, and now in the possession of Mr. Pattenden.

Elizabeth Roalf, by a codicil to her will, dated the 13th February, 1777, gave the interest of four hundred pounds, in the three per cent. consols, to be paid yearly to ten poor widows, in equal proportions.

Thomas Challice, by his will, dated the 31st January, 1613, left a house, for the benefit of the poor; but this gift has long been lost.

Jacob Windsor, by will, dated the 16th July, 1699, gave eight teneements, in trust to the mayor and jurats, for eight aged persons of this parish to reside in; but the magistrates let them go to decay, and they have been taken down, and the charity lost, and government have erected a battery on the ground.

Thomas Gibbon Boykett, left by will, dated the 12th September, 1799, a sufficient sum in the consolidated fund, in trust to John Minet Fector, Esq. to produce an annuity of five pounds a year, to be given

in bread, to the poor of the parish of Saint Mary the Virgin, in Dover.

Rebecca Saure, by will, dated the 6th of November, 1808, left to her executors, Sarah Rice and Samuel Lathain, in the consolidated bank annuities, in trust for her executors, within three months after her decease, to transfer four hundred pounds, in the names of the two oldest jurats of the corporation of the town of Dover; and if either of them refuse to accept the same, then to the next jurat or jurats in seniority, to remain vested in the names of such jurats for the time being, and their successors, for ever; yiz. in trust, that the yearly dividends shall be paid, from time to time, to the officiating minister, the churchwardens, and the overseers of the poor of the parish of Saint Mary the Virgin, for the time being, and their successors, for ever, to be by them laid out in supporting and repairing, from time to time, as occasion may require, the tomb, letters, pavement, rails, and vault, in the church-yard, in which the remains of her late husband is deposited; particularly in painting the tomb-stone and rails once in every two years; and the overplus of such dividends shall, by the said minister, churchwardens, and overseers, and their successors, be laid out in the purchase of coals, and be distributed at their discretion yearly, and every year, for ever, equally between ten poor widows, who shall be parishioners of the said parish, and resident therein, and shall not receive alms from the same; and such distribution, as to the objects thereof, to be, from time to time, with the approbation of the said trustees, and the survivors of them. Provided always, and upon this condition, that in case the tomb and letters thereon, and the pavement, rails, and vault, shall not be well and sufficiently supported and preserved in good condition, in all respects, then, upon default of such reparation, it is directed, that the said bank annuities shall go, and be transferred unto, the said trustees, and the survivor of them, to be by them applied with the residuum of her real and personal estate.

Armorial Bearings.

The following achievements belong to the family of James Gunman, Esq. of Dover.

G. Three chevronels, braced in base vaire, and a chief or, for Wivell; impaling G, a demi lion rampant argent, within a bordure counter indented argent and sable, for Devinke. Two other achievements, with the same arms.

For Elizabeth Wivell, wife of captain James Gunman, 1st and 4th vert, an eagle, with two heads displayed, argent, gorged with a ducal coronet, gules, for Gunman; gules on a bend, engrailed between two cinquefoils pierced of the field or, three leopards faces vert, for Aldersey; impaling quarterly 1st and 4th gules, three chevronels, braced in base vaire, and a chief or, for Wivell; 2d and 3d gules, a demi lion rampant argent, with a bordure sable bezante, for Stokes.

For captain James Gunman, quarterly 1st and 4th vert, an eagle with two heads displayed, argent, gorged with a ducal coronet, gules; 2d and 3d gules, on a bend engrailed, argent, between two cinquefoils pierced of the field, or; three leopards, faces vert, for Aldersey, supporting an escutcheon of pretence, quarterly; 1st and 4th gules, three chevronels, braced in base vaire, and a chief or, for Wivell; 2d and 3d gules, a demi lion rampant, argent, within a bordure sable bezante, for Stokes.

For Christopher Gunman, Esq. six coats. 1st. Vert, an eagle with two heads displayed, argent, gorged with a ducal coronet, gules, for Gunman. 2d. Gules, on a bend engrailed argent, between two cinquefoils, pierced of the field or, three leopards faces vert, for Aldersey. 3d. Gules, three chevronels braced in base vaire, and a chief, for Wyvell. 4th. Azure, a bend or, for Scroope. 5th. Gules, a demi lion rampant argent, within a bordure sable bezante, for Stokes. 6th. Vert, an eagle with two heads displayed, argent, with a ducal co-

ronet, gules, for Gunman, supporting an escutcheon of pretence. Nine coats.

1st. Argent, three mascles sable, on a chief of the 2d; as many lions rampant of the 1st, for Hanson. 2d. Sable, three naked daggers argent, the points extending to the corners of the shield, the pommels and hilts or, conjoined on a chief gules; a lion passant between two manches of the 3d, for Norton. 3d. Ermine, on a fesse gules, three escallop shells or, for Ingram. 4th, Argent, on a pale azure, a demi pike's head proper, for Gascoigne. 5th. Sable, on a fesse between three saltiers or, as many fleur de lis, gules, for Smith. 6th. Vert, six escallop shells, 3d, 2d, and 1st argent, for Holbeche. 7th. Argent, a fesse dancette gules, three leopards faces in chief sable, for Pultney. 8th. Azure, on a bend between six covered cups or, for Boteler. 9th. Argent, three mascles sable, on a chief of the 2d, as many lions rampant of the 1st, for Hanson.

For Essex Hanson, wife of Christopher Gunman, Esq.

Quarterly, 1st and 4th vert, an eagle with two heads displayed argent, gorged with a ducal coronet, gules, for Gunman. 2d. Gules, on a bend engrailed argent, between two cinquefoils, pierced of the field or, three leopards faces vert, for Aldersey. 3d. Gules, three chevronels braced in base vaire, and a chief or, for Wivell. 4th, Gules, a demi lion rampant argent, within a bordure sable bezante, for Stokes; supporting an escutcheon of pretence. Four coats.

1st. Argent, three mascles sable, on a chief of the 2d, as many lions rampant of the 1st, for Hanson. 2d. Sable, three naked daggers argent, the points extending to the corners of the shield, pommels and hilts or, conjoined in fesse on a chief gules, a lion passant between two manches of the third, for Norton. 3d. Ermine, on a fesse gules, three escallop shells or, for Ingram. 4th, Sable, on a fesse between three saltiers or, as many fleur de lis, gules, for Smith.

For Ann, daughter of Christopher Gunman, Esq.

Quarterly, 1st. Vert, an eagle with two heads displayed argent, gorged with a ducal coronet, gules, for Gunman. 2d. Gules, three

chevronels, braced in base vaire, and a chief or, for Wivell. 3d. Argent, three mascles sable, on a chief of the 2d, as many lions rampant of the 1st, for Hanson. 4th. Ermine, on a fesse gules, three escalop shells or, for Ingram.

Other different atchievements.

Gules, a lion rampant argent, crowned or, suppressed by a bend sable, a lion passant guardant or.

Or, a fret azure, for Eaton, impaling party per chevronelle argent and sable, three mullets pierced and countercharged.

Azure, a fesse dancette argent, between three escalop shells of the same, for King, impaling argent a fess dancette sable, for King.

Quarterly 1st and 4th or, a fret azure, 2d and 3d barry of six pieces, ermine and gules, for Eaton and Hussey; impaling quarterly 1st and 4th sable, a lion rampant guardant or, between three escalop shells argent, a crescent for difference; 2d and 3d gules, a cross between four naked daggers erect argent, pommels and hilts or, a crescent for difference.

Second and third gules, a cross between four swords erect argent, hilted or, for Philpot.

Gules, three chevronels, interlaced in base vaire, a chief or, for Wivell; impaling gules, a demi lion or, within a bordure, counter indented argent, and sable, for Devinke.

Quarterly 1st and 4th azure, a fesse ermine, three fleur de lis, in chief or, for Kenton. 2d. Or, on a canton gules, an eagle displayed of the field. 3d. Quarterly, 1st and 4th argent, on a bend sable, three bezantes; 2d and 3d sable, three acrons or, impaling or, three roses gules.

Argent, a chevron, between three cross crosslets fitchee sable, within a bordure gules bezante, for Russel; impaling argent a chevron sable, between three cranes proper.

Or, on a canton gules, an eagle displayed of the field, impaling or, three roses gules.

Or, on a canton gules, an eagle displayed of the field, impaling or, three cinquefoils gules, for Whembish.

Sable, a fesse dancette or, between three crescents argent, for Rouse.

Impaling argent, on a cross between two cross crosslets fitchee in chief, a fusile argent.

Argent a chevron sable, for Broadley.

Impaling or, a fesse dancette between six billets of the 2d, ermine, for Perkins. Crest, a pine apple proper, stalked and leaved proper.

Sable a griffin segreant or, on a canton of the 2d, a fleur de lis of the field; impaling gules, a naked dagger bendways argent, pommel and hilt or.

Sable, on a chief argent, a demi lion rampant gules, for Braemes; impaling azuré three wheat fans or, for Septvans.

Quarterly 1st and 4th or, erminois sable, for Minet; 2d and 3d barry of six argent and gules.

Per pale azure and gules, a cross moline, and a chief or, a mullet for difference, for Ianson; impaling gules, a chevron, between three battle axes argent, staves or, for Bazely.

Gules three lions rampant, guardant or, for Jones; impaling a fesse fusilly between three griffins heads erased, colours unknown.

Argent a chevron sable, for Broadley; impaling azure nine étoiles or, 3, 3, 2, and 1.

Sable, on a fesse argent, three mascles of the field, between three cinquefoils argent, for Lamb.

Azure a bend, between two cinquefoils argent, for Belchire.

Impaling argent a pithon regardant vert, in a chief, three seals, for Teal.

The same on a monument, for Farbrace and Teal.

Argent a chevron cotized ermines, between three martlets sable, for Rice; impaling argent, a tripled tower sable, for Samson.

Party per chevron or, and sable, two eagles displayed in chief, and a fleur de lis in base, countercharged for Stringer; impaling a fesse dancette or, between three crescents argent, for Rouse.

Gules a lion rampant argent crowned or, depressed by a bend sable; impaling sable a lion passant guardant or. 1688.

Quarterly 1st and 4th argent, a lion passant regardant ermine, between two cinquefoils in chief vert, and an escalop shell in base gules; 2d and 3d or, a griffin segreant sable, within a bordure gules, for Jeken.

Sable, three greyhounds courant, in pale argent, a collared or, for Elizabeth Mauleverer.

CHAP. VII.

The Market Place. Scites of Saint Peter's and Saint Martin's churches. The right of the inhabitants to inter their dead in the old church-yard. Churchill buried there. The old cross and town house. The ancient method of holding markets. The privilege confirmed by Charles the Second. The mayor, and jurats, have the inspection of weights and measures. Punishment of bakers. Prison. A county rate first demanded. Proceedings thereon. Alms-house. Saint Nicholas church, and ward. Gifts by wills. The parish church of Saint James.

The quadrangle, in which the weekly markets are held, on Wednesday and Saturday, was anciently bounded on the north by Saint Peter's church; on the south east, by a large mansion, called Tinker's-hall, and other buildings. The collegiate church of Saint Martin, with several edifices belonging to the canons, inclosed the other sides, and a part of the ruins may still be seen above the houses.

Saint Peter's church was probably built by the secular canons, on the ground which is now occupied by the Antwerp inn, and the adjoining houses; but the historians have left us in ignorance, both of the size of the edifice, and stile of the architecture; and the mutilating hand of man, by destroying the whole fabric, has effectually prevented us from forming a conjecture at what æra it was built.

After the suppression of the priory, it was valued in the king's books at three pounds sixteen shillings and ten pence ; and the certified value, being no more than twenty-four pounds, it was discharged from paying first fruits, and tenths.

This church was in a dilapidated state, A. D. 1583 ; yet a rector, by the name of John Grey, was presented to it in the year 1616 ; but it is much to be doubted, if it was then used as a place of worship.

It appears, by wills proved in the consistory office at Canterbury, that several respectable families were anciently interred in this church and the church-yard.

Thomas Tooke, of Beer, was buried in the chancel of the Virgin Mary, A. D. 1474.

William Palmer, near the image of Saint Nicholas, in the year 1483.

William Warren, in the chapel, and near the image of the Virgin Mary. He gave twenty pounds towards repairing the lead on the roof.

Richard Fincour, A. D. 1550, was buried before the image of Saint Mary Magdalen, and he left a legacy to Saint Rocque's light.

Peter Mace, was interred near the chapel of Saint Michael ; and Robert Vincent, in the chapel of Saint John the Baptist; and Charles Braems, merchant, near his father, A. D. 1611.

Henry Flavel, of the parish of Saint Peter, was buried in the priory church ; and by his will, proved A. D. 1524, he gave five marks to repair the roof of the north aisle, over the image of Saint Stephen, and for mending the window opposite to the image of Saint Tronyan. He gave a cow to Saint Tronyan's light, and another to the light of Saint Trofymus.

It appears that there were several chapels, and images, in this church, dedicated to Saints, whose names are not very familiar to us.

Historians are entirely silent how the lands belonging to the dilapidated churches, in this town, first passed into the hands of private

individuals ; but it is said, that John Hewson, a merchant in Dover, about the year 1639, or some of his descendants, gave to the inhabitants of the parish of Saint Mary, the privilege of interring their dead, and likewise strangers, in the burying ground belonging to the collegiate church ; but the right of herbage was reserved, and still continues, private property. The lay proprietor claims a fee of five guineas for an altar tomb, and ten shillings and sixpence for putting up a head stone.

The baptists have a burying ground, which was evidently parted off from the church yard, and let for a garden, after the reformation.

In the year 1593, John Toke sold it to John Lovedale, and it was described as being in Nankin's ward.

The celebrated Charles Churchill was interred in this church-yard, A. D. 1764 ; and there is a small stone, at the head of his grave, with this inscription :

“ Life to the last enjoyed
“ Here Churchill lies.”

CANDIDATE.

There was anciently in the quadrangle a building called the cross, which, in an old plan of the town, appears only as a shed, with the cross over it. There was afterwards a large room built, adjoining to it, for the guildhall ; supported will pillars, under which the inhabitants hold their market. This building has had a general repair since the first erection of it ; and the sides have been covered with mathematical tiles ; and it has large venetian windows, which give it a modern appearance ; but the grotesque figures, which are carved in the timbers that support the fabric, plainly point out the original stile of the architecture.

By an ancient custom, observed within the liberties of the Cinque Ports, they were not to open the market before the rising, nor to continue it after the setting, of the sun. If they transgressed this law,

the buyer was to forfeit his bargain, and the seller the price of it, for the benefit of the town, where the offence was committed.

Fishermen might sell their fish between the rising of the sun, and the ringing of the curfew bell. The privilege of holding a market on Wednesday and Saturday, weekly, at Dover, was confirmed to the town by Charles the Second; but when it was first practised may be doubtful.

The mayor and jurats claim the privilege of taking cognizance of the assize of bread, the measures of ale, and of all other weights and measures, and to mark them according to the statute, and to fine all those detected in selling by any weights, or measures, which are not considered legal.

That they might the more easily detect the fraud of any baker, they were to fix a particular mark upon each of their loaves, under the penalty of forfeiting them, and paying a fine of one shilling and nine pence. One moiety of which was to be paid to the bailiff for the King, and the other to the mayor, for the town, toward the discharging an amercement.

The bailiff could not enter into any house, or secure place, belonging to a freeman, either by day, or by night, without the assent of the magistrates, with the mayor, and his serjeant, and two men sworn to keep the peace; they were therefore obliged to take the proper officers, whenever they proposed to enter into the house of a baker, to try the weight of his bread.

If the mayor, and the bailiff on the part of the King, went with the proper officers, they might lawfully enter the baker's house, and take a loaf of each sort, and carry them to the common hall. The serjeant was then sent with his horn, to make proclamation at the usual places in the town, for the inhabitants, and the baker, to assemble at an hour appointed to weigh the bread.

² See Customs.

When they met at the court-hall, the bailiff called six respectable persons, and charged them, by their allegiance to the King, to declare to him, the highest, the lowest, and the medium price of wheat since the last market day.

The bread was weighed according to the medium price ; and if there was any found under weight, belonging to a freeman, it was forfeited, and he paid a fine of one shilling and nine pence. For the second offence he paid double, and the loss of his bread. For the third time, he paid a treble fine. A baker, who was not free, was fined double to a freeman.

Every baker, detected of fraud more than three times in a year, was amerced, at the will of the bailiff ; and if he refused to submit, his oven was rendered useless, and he was obliged to swear, that he would not follow his business any more for a year and a day.

This ancient practice has long since given place to modern statutes ; and the fine for light weight is now levied by the mayor, or one of the magistrates.

The shutting up the market at three of the clock in the afternoon, has been altered by a vote of the common council. In the year 1801, it was decreed, that the butchers might continue selling until nine of the clock in the evening, to accommodate the labouring people.

The Prison.

The jailor's house, the prison, and the bridewell, are near the staircase leading to the court hall ; but the two latter are old and indifferent buildings, and by no means adapted for reforming refractory persons, or keeping notorious aggressors of the law in safety. The felons apartments have been kept neater than many others in exempt jurisdictions. The debtors room is over the felons, and more comfortable, but they have no opportunity of making their wants known to the public.

The Church of Saint Nicholas.

This church stood in the ward of Saint Nicholas, in Bench-street, and the tower, and some part of the walls, which Boulle and his associates could not dispose of, are yet remaining. The old porch was standing in the year 1796, when it was taken down, to make room for a dwelling house. There is but little known of this church. Thomas Hextal, who represented the town in parliament, A. D. 1471, was buried in the chancel. By his will, dated in 1486, he grants his lands and tenements to his son Edward, on condition, that he assigned over to the churchwardens of the parish of Saint Nicholas, a croft of arable and pasture land, at Maxton. One moiety of the rent was to be given to the minister, and the other to the repairs of the church.

Robert Randolph was buried in this church, in the year 1486, before the altar of Saint John of Bridlington.

Edward Hextal was buried in Our Lady's chapel, A. D. 1518.

John Brown was interred, before the great rode in this church, A. D. 1522.

Robert Nethersole, one of the plunderers of the churches, had the lead on the roof; Boulle the church-yard; and John Plane, of London, two tenements, and the land belonging to them in the town.

It is not known how long Boulle and Plane kept possession of this building and premises; but it is certain, that they parted with them to different purchasers, and the corporation had possession of the old tower, and a part of the ground, which they sold in the year 1729, to Robert Pyall, carpenter, for one hundred and twenty-four pounds fifteen shillings.

The tower, which is still standing, was anciently called Marshes, or Prison tower; for having been used to confine Frenchmen, in the time of war between the two nations.

The Parish Church of Saint James.

This is an ancient edifice, but when, or by whom it was built, historians are silent ; and there has been so many alterations and improvements made in it, within the last century, that there is no judging by the windows, or any of the interior parts, whether it was erected by Saxon or Norman masons.

It is a small rectory, in the gift of the archbishop ; and it stands in the King's books, among the small livings, at the yearly value of four pounds seventeen shillings and six-pence.

Archbishop Tenison augmented this rectory with a gift of two hundred pounds ; and he confirmed it by his will, on condition, that the governors of Queen Anne's bounty augmented it with the like sum, which they did.

The late worthy rector, the Rev. Thomas Tournay, caused great improvements to be made in this church. He had two hundred pounds, left by archbishop Secker, for repairing vicarage houses, to which he added fifty pounds ; and, with a subscription from the inhabitants, he built a good substantial house, for himself and his successors, upon the scite of the rector's cottage, which, by the masonry, appeared to be of the age of Elizabeth.

In a chancel, in this church, the Warden of the Cinque Ports used to hold a court of chancery and admiralty, every three weeks, and the court of loadmanage ; which are still opened there, and adjourned to the Antwerp inn for business.

Several of the Lieutenant Governors of Dover Castle had pews in this church, and their arms were carved on the doors of their pews ; but these have given place to improvements.

John Claringbould, by his will, proved A. D. 1485, was buried in the choir of this church, before the image of Saint James, and near the altar of Saint Nicholas.

Elizabeth, the widow of John Wadde, was buried in the choir, in the year 1583 ; and she gave by will half a sheet to the high altar, and a kercher to cover the chalice ; also, her best coverlet, to be laid before the altar for poor child-wyfys ; and a table cloth of drap, to make two towels, one for Saint James, and the other for the cross.

John Broke, the elder, was buried in this church ; and, by his will, in 1529, he ordered, that certain of his lands should be sold, and forty pounds given for a complete suit of vestments, to have the prayers of the priests for ever.

William Ward, jurat, was buried in the east corner of the Sailors chapel, in 1623.

Charities.

Thomas Bean, jurat, gave by will, in 1704, to the corporation in trust, two hundred and seventy-two pounds. With the interest arising from this sum, they were to keep the tomb, rails, and inscription, in memory of James Byron and Clement Buck, in necessary repair ; and the remainder they were to give yearly to the minister and churchwardens, who were to dispose of it in bread to the poor, on the first Sundays in January, February, and March, for ever.

Thomas Dawkes, shipwright, by his will, proved in 1705, gave fifty pounds, in trust to the mayor and jurats, to be constantly kept at interest, to purchase bread, to be given to the poor.

Population.

By the returns made by the overseers, in pursuance to the statute of the forty-first of George the Third, there were in this parish 255 inhabited houses, and 14 untenantanted ; 338 families ; 567 males, and 760 females, and 55 registered seamen. Total, 1360 persons.

By the last return, in the fifty-first year of his present Majesty's reign, the officers made 272 inhabited houses ; 364 families ; 2 houses

building; 7 houses uninhabited; 2 families employed in agriculture; 79 families employed in trade, handicraft, &c.; 251 other families, not employed in the foregoing classes; males, 593; females, 847. Total, 1440.

Armorial Bearings.

Argent, on a saltier azure, a bezante in the center, for York.

Sable, a lion rampant guardant or, between three escallop shells azure, for Gibbon; impaling argent, on a saltier azure, a bezante in the center, for York.

Party per chevron, embattled or and azure, three martlets close counter-changed, for Hodgson.

Vaire, a chevron argent, for Jelly; impaling a chevron engrailed between three escallop shells, and as many eagles' heads displayed, for Richards.

Ermine, on a chief, a griffin passant, for Cook; impaling on a canton a stag's head erased, for Marsh.

Azure, a chevron, between three buck's heads, attired or, a crescent for difference, for Buck.

Argent, on a chief indented gules, three crosses pattée of the field, for Percival; impaling gules, a fesse between three garbs, within a bordure impaled, for Kemp.

Gules, a fess between three garbs, with a bordure engrailed; impaling argent, on a chief indented gules, three crosses pattée of the field, for Percival.

Or, on a canton gules, an eagle displayed of the first, for Jacob; impaling a coat, charged with three lions rampant.

Gules, a chevron engrailed or, between three ____ heads erased, for Skyner; impaling two coats; the first gules, a chevron or, between three ____ heads erased; the second vert, an oak tree, fruited or, charged with a bird in chief, and two in base.

Argent, on a chevron sable, three etoils, between as many martlets of the second, for Matson.

Party per fesse, three blackmoors heads for Collard; impaling sable, a chevron between three castles, triple towered, argent.

Azure, a saltier between two anchors or, and as many boars passant argent, in pale, for Mitchell; impaling, quarterly, 1st and 4th, a fesse between three mascles argent; 2d and 3d, azure, a cross moline argent.

Or, a bend gules, ~~on a chief indented~~ vert, three bezants, for Latham; impaling sable, a chevron between three herons argent, for Henshaw.

Cheque, on a fesse gules, three leopards heads erased, for Jones.

Argent, on a bend azure, five fleur de lis, for Byron.

In several of the foregoing coats the colours are not known.

CHAP. VIII.

The Alms-house.

The first alms-house at Dover, was situated in the ward of Saint Nicholas, and adjoining to the church of the same name ; and, according to tradition, it was given by some charitable person, prior to there being any assessment for the relief of the poor, for the reception of such persons as might be destitute of a lodging.

As early as the year 1532, the mayor, jurats, and commonalty of the town of Dover, agreed with Oliver Lygo, to exchange the alms-house in Bench-street, for a house in Saint George's ward. These premises were either very much out of repair, or they were suffered to go to decay ; for Robert Justice, in his will, proved in the year 1552, gave to those who would undertake to re-build this house, six shillings and eight-pence, towards the expence. As this work was not undertaken until the year 1611, it is very probable the legacy was lost.

This house had the appearance of an hospital, within the memory of many living ; for there were a row of beds fitted up on the side of a large room, ready to receive the distressed petitioners ; but the house is now converted into a private dwelling, and the beds are partitioned off in the large room.

The mayor, for the time being, is called the master of the alms-house, and two of the common council are wardens and treasurers. These officers have the management during the year.

The early accounts of this charity are not in being; and it is, therefore, difficult to ascertain for what particular charitable purposes it was intended. As the foundation dates its origin prior to any assessment being made for the relief of the poor, it might possibly, at that time, have been intended for the general relief of paupers; but the present received opinion is, that it was founded for the purpose of administering temporary aid to distressed soldiers and sailors, and their wives, in passing through this town.

In consequence of the intentions of the charitable donor not being particularly understood, some unpleasant disputes have heretofore arisen, between the governors of this charity, and the visitor and guardians of the poor of the parish of Saint Mary the Virgin, respecting what kind of persons were the proper objects of it; the latter conceiving, that they were frequently burdened with much casual poor, which ought to have been provided for by the fund arising from this charity.

At the time an inquiry was made into the distribution of the different charities, it was ordered in vestry, that the visitor and guardians of the poor, should apply to the mayor and his brethren, for permission to inspect the accounts of the application of the receipts belonging to the alms-house; but the order, for various reasons, was not put in execution until the year 1802, when the following petition was addressed to the governors.

"To the worshipful the mayor of the town and port of Dover, master of the alms-house; to the jurats, the wardens of the same; to the chamberlain and treasurer; and to the other jurats, and the common council, of the said town and port.

"The humble petition of the visitor and guardians of the poor, of the parish of Saint Mary the Virgin, in the town of Dover.

"Sheweth,

"That your petitioners, in consequence of the many disputes which, from time to time, have arisen, between the magistrates of this town and your petitioners, relative to the providing for distressed soldiers and sailors, and their wives, who, in passing through this town, have applied for relief, and the parish of Saint Mary has frequently been burdened with expenses, which your petitioners humbly conceive, ought to have been provided for by the governors and the directors of the alms-house, out of the fund, arising from the rents of the lands and tenements belonging to the said charity; the parishioners of the parish of Saint Mary, being desirous of preventing such disputes in future, have judged it necessary to direct your petitioners, in and by an order of vestry, dated the 17th day of August, 1800, to petition the governors of the said charity, for permission to inspect the book, or books, which contain the accounts of the receipts and disbursements of the sums by them, from time to time, received, laid out, and expended; and the parishioners finding that their said order hath not been put in execution, they again, in and by an order of vestry, dated the 8th day of April last passed, directed your petitioners to apply for the aforesaid information. We do therefore, in pursuance of our instructions, in behalf of the inhabitants of the parish of Saint Mary, humbly request permission, to inspect the said book, or books, at such time and place, as you may be pleased to judge most convenient to yourselves, or to any person whom you may be pleased to appoint to exhibit the said accounts, to enable your petitioners to make a report to the inhabitants of the said parish, agreeably to their instructions; or inattention to their order may be imputed to your petitioners, which they wish to avoid."

This petition was not noticed by the governors during several months, in consequence of a common assembly not having been held

from June, 1802, until January, 1803; and the visitor and guardians of the poor, being at that time ignorant of the cause of their silence, renewed their application, under another order of vestry, for inspecting the accounts. The governors for some time resisted this application, under an opinion, that it had not been made to them in so respectful a manner as their situation warranted them to expect; but, after much altercation, an order was made by the common assembly to grant the subject of the petition.

This brought the matter to a conclusion. The accounts were inspected, and the ancient and present state of the income of the different charities, and the other particulars which were the objects of the inquiry, were clearly ascertained.

The earliest records of the receipts and disbursements of this charitable institution, begin in the year 1629; and there is a long chasm of one hundred and seven years, from the appropriation of the alms-house for the reception of distressed persons, to the beginning of the existing accounts.

Whether the first records of this charity have perished by time, or by any other means, their loss must have frustrated every endeavour to gain information, relative to the ancient distribution; if the existing accounts had not contained sufficient internal evidence to establish the original designs of the pious donors.

In a terrier of the lands, taken in 1629, when Luke Pepper was mayor, and master of the alms-house, and Valentine Tatnell, and William Riehards, wardens, there is mention made of the occupiers of the lands at that time, the parishes in which they are situated, the number of acres, and the rents paid.

Thomas Broom, by an indenture of lease, held twelve acres of arable land belonging to the alms-house, in the parish of Hougham, at the yearly rent of twelve pounds.

John Westrope had the assignment of a lease of a piece of land, near Cow-gate, containing, by estimation, half an acre, at the yearly

rent of thirty shillings, purchased of Mr. Midge, and devised to George Bing, jurat. On one part of this land, certain messuages or cottages were built.

John White paid an annuity of twenty shillings, for a messuage, garden, and orchard, situated in Biggin-street, and by him purchased of Alexander and William Deeds; formerly the property of Thomas Andrews, gentleman, and by him given to the alms-house.

Thomas Brounger, senior, and the assigns to Thomas Brounger, deceased, held by lease two tenements, belonging to the alms-house, at the yearly rent of twelve pence.

Margaret Marsh, widow, was a tenant at will, of one piece or parcel of ground, heretofore belonging to Mr. Child, lying near to Mr. James Huggesson's garden pales, wall, and meadow, in the parish of Saint James, at the yearly rent of twenty shillings.

John Randal held a piece of meadow land, at Paul's-corner, at the yearly rent of five pounds ten shillings.

By a memorandum in the accounts, dated in the year 1572, it appears, that Mr. Stokes paid into the hands of the master of the alms-house, twenty pounds; but the money was not to be incorporated with the fund of the charity; but the principal, and the interest were to be reserved, for the relief of such persons as might, in any future time, be visited with the plague.

This sum was given by different persons in the town, and it was laid out in the purchasing of land at Tilmanstone; which is now included in the lands belonging to the alms-house.

Thomas Brice, in the year 1677, left to the master and wardens, a piece of land, which rented at twelve shillings by the year, for the relief of those who might be afflicted with the plague. If this charity was ever united with the preceding ones, it has escaped notice.

The only mention we saw of this gift, was in the accounts, where it appeared, that in the same year of the donation, there was a charge of twenty shillings, for making a conveyance, from him to the master

and wardens, which is clear proof that the land was given, but why his name did not appear in the terrier is now unknown.

In the year 1685, there were two cottages, near Cow-gate, which had been suffered to go to decay, and the materials were sold.

Mr. Buck, mayor, and the wardens of the alms-house, in 1693, sold the lands to Monins and Kennett, for three pounds. These were the tenements held by Brounger.

In the year 1607, the corporation borrowed of the alms-house fund fifty pounds, and mortgaged the town-house for the security of the money. They paid interest at the rate of five pounds for an hundred ; and, in 1755, it was reduced to four pounds.

In the year 1758, they borrowed one hundred pounds more ; and they still appear to be indebted to the charity for the above sums, and for which they have regularly charged themselves with the interest in passing the accounts.

The state of the charity at Michaelmas, 1812, the number of fields, the quantity of land, where situated, the rents, and other particulars, are as follow :

Parishes.		Acres.	Tenants.	Rents.
At Tilmanstone,	3 fields,	11 0 7	Rev. C. Baker,	£ 10 0 0
Hougham,	3 ditto,	7 0 31	Thomas Pepper,	21 10 0
	1 ditto,	1 1 7	Thomas Rutley,	5 2 0
Charlton Bottom,	1 ditto,	5 1 27	William Collins,	21 0 0
Paul's Corner,	1 ditto,	2 0 12	J. Shipdem, & others,	51 1 0
Upwall,	1 ditto,	0 2 21	Thomas Gorely,	12 0 0
Saint James's, a piece of land,			Thomas Gillbee;	0 15 0
A cellar, near the alms-house,			Parker Smithett,	2 0 0
Annuity on a house in Biggin Street,			Ex. of K. Collins,	1 0 0
Four tenements, in the occupation of			Hopper, and others,	4 0 0
The annual interest received of the chamberlain on £150,				6 0 0
The annual interest arising from £900, in the 5 per cent. stock,				40 10 0
				<hr/>
				£ 174 18 0

From this statement it appears, that the alms-house has now an annual income of upwards of one hundred and seventy pounds; and that this sum has been funded, instead of being applied to charitable purposes.

It further appears, that for the first fifty years, from the year 1629, the objects which had been relieved were of every description. They were not only soldiers and sailors, and their wives, but foreigners of various nations; persons who had been taken prisoners, sick men and women, and their children; cripples; boys, with their hands perished with the frost; melancholy persons, and persons with the small pox; and when it was judged imprudent to take them into the house, they were provided for as out pensioners. If they died, they were buried at the expence of the fund; and those who were fit to proceed on their journey, and did not like to quit the town, were sent as far as Buckland. These early accounts seem to point out the objects for whom these charities were intended, and to whom they were given for many years; and they also shew, what kind of persons ought now to obtain relief from the fund.

When houses of this description were first adopted for the reception of distressed objects, parochial assessments for their relief were unknown; and, after the suppression of the religious houses, without some asylum for the reception of paupers, they must have perished, when sick and infirm, and exposed to the inclemency of the seasons.

It is certainly very probable, that these charitable donations were originally applied to assist parochial, as well as other poor, when the fund would admit of it, and that the funding system was not introduced, until after rates for the relief of the poor were established by law. When statutes were passed, to prevent paupers from leaving their parishes, soldiers, sailors, and persons who had been taken prisoners, were the only poor who wandered about the country, and they were sent by passes to their different homes.

CHAP. IX.

The part of the town called the Pier. The land vested in commissioners. The play-house. The custom-house. Historical proceedings in forming a harbour.

The part of the town called the Pier, has all been built since the reign of Henry the Eighth, upon the waste left by the sea; which is now vested in the commissioners. The houses at the foot of the high, and almost perpendicular cliff, are considered by strangers in a perilous situation: but use has familiarized it to the inhabitants; and experience has taught them, that there is not much danger to be apprehended by the falling of the chalk above them. The great increase of houses in the pier, between the reigns of Henry the Eighth and Charles the First, engaged the attention of the Rev. Henry Hennington, vicar of Hougham; and he filed a bill in the exchequer against several persons, for the payment of tithes and offerings, as parishioners of the said parish. He considered all the waste taken from the sea, as an extension of his district, as the bounds of their perambulation were near the foot of the cliff. The inhabitants of the parish of Saint Mary answered the bill, in 1634, and the suit was determined in their favor about the year 1638.

There are no buildings in this part of the town, to arrest the attention either of the antiquary or the architect.

In the year 1790, an edifice was erected, by subscription, in Snargate-street, for an assembly room, and a play-house; and it is found sufficiently large to answer both purposes.

A new custom-house was erected in the year 1806; as the houses erected by Arnold Braems, about the year 1662, and used by the officers of the customs, were in a very ruinous state. The old house was originally in two dwellings, which were occupied by Braems, and his son Walter, who were then the principal merchants in the town. They had a grant of the beach, on the opposite side of the basin, on which they erected a square pile of buildings for store-houses. They were then in the expectation of Dover being made a free port.

If the average sum of the duties collected by the customs at this port, from the year 1788, to 1793, both inclusive, did not amount to more than £14,269 each year, the salaries of the officers, and other deductions, were nearly one third of the whole sum collected.

The large demand upon the duties of this port, arises from their employing so many officers, of different denominations, both on the land and the water, to check the contraband trade on the coast. When it is considered how many persons are employed under the collector, and the trifling sums some of them receive, it may be doubted, whether the pay be sufficient to excite their vigilance, or to preserve their integrity; if a temptation should be offered them to remain inactive.

Though the ancient inhabitants of the Cinque Ports derived all their consequence, by being expert fishermen and mariners, and the fishery, if well followed, would prove a constant source of employment and wealth; yet there was not a vessel fitted out at Dover for the herring season, for several years; and the town, in the time of peace, depended upon the Frenchmen, who frequently brought their fish for sale.

About the year 1790, a feeble attempt was made to revive the fishery at this town; but vessels still come from the westward, during the summer, to supply the market with fish.

The Harbour.

Many strange and inconsistent fables have been advanced, concerning the original situation and entrance into the harbour at this place, and upon no better authority, than a short extract from an ancient manuscript, said to have been preserved at Sandwich, which mentioned, that Arviragus, a British King, stopped up the passage, to prevent the Romans sailing into it with their fleet. This tale is of too doubtful authority to think of controverting it; for it will be necessary to shew, that there was such a person who reigned here, and a cotemporary with Augustus Caesar.

The bank, attributed to the labour of the Britons, was certainly cast up by the sea, as it was composed of sand and pebbles; and the Romans erected some of their first buildings upon it, at this place, and a part of the ruins have remained to our own time. The edifices built by the Romans, might tend to hasten the accumulation of the adventitious matter brought in by the sea; for the stream of fresh water, flowing from its sources to the shore, was reduced to a narrow current, at an early part of our history.

There are no records remaining to point out the time, when the depth of the stream was so much diminished, as not to admit vessels into the valley; but it is certain that, as early as Edward the Confessor, the mariners were obliged to seek shelter for their boats on the eastern side of the bay, and they continued to use that place as a harbour, for many years; for when William the First fortified the town with a wall and towers, the harbour was at the foot of the hill, near the wine vaults, where the low ground still appears, and was used for many years as a farm yard, a garden, and for other purposes.

Between the cliff, and the town wall, there was a considerable plot of ground, which was used by the mariners, to draw up their vessels in tempestuous weather, beyond the surge of the sea ; and there were three gates in the wall, at a small distance from each other, which led from the town to the harbour.

In a course of time the mariners were obliged to build a work, to break the force of the waves ; for it is recorded, that a moiety of the fines imposed on the loadsmen, for the disobedience of orders, was to be applied in repairing the *old wyke* of the harbour ; while the vessels were of small tonnage, the mariners could easily draw them upon the strand with capstans.

The ground between the wall and the cliff, at this place, was built on soon after the stopping up of the harbour ; but the cause which produced this effect, has not been transmitted down to us, by any historian ; yet there is sufficient proof, to the eastward of the town, to shew, that the falling of the cliff will stop the pebbles, and produce a considerable change in the bay.

It is now known, that such falls sometimes extend several rods into the sea, and check the force of the current on the shore, and banks are formed on the south west side. Such a cause was sufficient to choak up the entrance to the harbour, at the foot of the cliff, near the wine vaults.

Prior to the year 1500, the mariners were obliged to look out a new place to moor their vessels, and the only one they could find, in the vicinity of the town, was near a projecting point of land, on the opposite side of the bay.

John Clark, the master of the Maison Dieu, is the first upon record, who attempted, with the assistance of Henry the Seventh, and the mariners, to raise a bank, with chalk and earth, on the south west side of the bay, to break the waves, and check the velocity of the

* MSS. of Loadmange.

current on the shore. At that time, the sea flowed up to the foot of the cliff, and near to the town wall.

The bank raised by Clark seemed to answer their expectation; and they built a round tower upon it, to break the force of the south westwardly winds, and they fixed iron bolts, and rings in it, for mooring their vessels; and the mariners, finding themselves secure in tempestuous weather, they named their harbour Paradise. The bank, which was begun by Clark, was continued further into the sea; and another round tower was built, near the end of it; for there are two such buildings shewn in the painting in Windsor castle, representing the embarkation of Henry the Eighth, at Dover, when he sailed to Calais, in 1520, to have an interview with the French King, between Guines and Ardes.

In the short space of ten years after the visit of the King, at this place, the sea had washed down one of the towers; and it had almost carried away the bank, and nearly ruined the harbour, which greatly distressed the mariners. Sir John Thompson, clerk, and master of the Maison Dieu, observing the great advantage that Clark's harbour had been to the inhabitants, though formed on a contracted scale, drew a sketch for a more extensive and substantial work. His plan was highly approved of by the mariners; but the means were wanting to put it in execution.

As a harbour, at Dover, appeared to Thompson a national advantage, he advised them to represent to the King the bad state of the pier, and that the ruin of the town would follow, if the harbour should be lost. This proposal meeting with the general approbation of the mariners, they requested him to describe their situation, and their gloomy prospect, in a memorial to the King, and they unanimously appointed him to present it; and they collected four pounds ten shillings, to pay his travelling expences to and from London.

The King was satisfied of the necessity of having a harbour at Dover; and he knew that it had been much frequented by his pre-

decessors; Kings of England, when business called them to the continent, and he received Thompson very graciously.

It was a part of the King's prerogative to appoint ports, and havens, for the exportation, and the importation of goods, and merchandise; and to fix the place where pilgrims, and travellers should embark, when going out of the kingdom; and where they should land on their return.

As early as the reign of Henry the Third, the price of a passage to France, from Dover, was regulated by statute. The preamble to the act, says, That heretofore a horseman was carried over the sea for two shillings, and a footman for six-pence; but the keepers had taken more, to the great damage of the people; it was therefore enacted, that they should not charge more than they were wont in old time. The Constable of Dover Castle was to make this known in his bailiwick.

The embarking, and the landing of pilgrims, and travellers on their journey, were confined by statute to this port; and the act, which passed in the reign of Edward the Fourth, recites one which passed in the reign of Edward the Third, and another in the reign of Richard the Second, on this subject.

It was enacted, for the comfort and relief of the town of Dover, one of the Cinque Ports, in the county of Kent, that no merchant, pilgrim, traveller, horse, or any beast, should be permitted to have passage, at any other port, or place, within the county of Kent, to Calais; or to land at any other port, excepting Dover.

This law was not very rigidly observed; for the inhabitants complained, that they both embarked, and landed at other ports, in the county of Kent, to their great impoverishment, and the desolation of the town, and castle, and the adjoining parts of the county.

As the preservation of the town, and the dispatch of public business, seemed to depend on the having a harbour, the King advanced

¹ Stat. 4 Edward 3, c. 8. ² Stat. 4 Edward 4, c. 10.—Stat. 15 Richard 2, c. 20.

five hundred pounds, to begin the work on Thompson's plan; and he had such confidence in his skill, that he appointed him his chief engineer; and added Edward May, Robert Justice, John Steward, and Richard Couchie, his assistants. These were considered as experienced mariners.

Thompson began this important work on Saint Anne's-day, 1583, at, or near the place which was fixed on by Clark.

Thompson proposed to make a head in the sea, of one hundred and thirty rods in length, with two parallel rows of piles, each 26 feet high; which he intended to drive into holes, cut in the solid rock, and to fasten them together with large bolts, and bands of iron. In an old plan of the town, which has reached us, there is an exact representation of the harbour, which was begun by Thompson; but not finished until the reign of Elizabeth.*

Thompson seemed perfectly acquainted with the strength of the elements he had to contend with; for he placed at the bottom, between the piles, large sand stones, brought from Folkestone, and upon them blocks of chalk, from Hæ Cliff, and the Castle Bay, and over them earth, and pebbles.

The carriage of materials was found very expensive; and a poor fisherman, named Young, thought that much labour and money might be saved, if a method could be contrived, to convey the stones by water to their work. Young was ignorant of the difference between the specific gravity of bodies, and the advantages to be derived from it; but, like a philosopher, he undertook to try, by experiment, what art could effect, in making the sea useful to them. Many may now smile at the simplicity of Young's plan for gaining information, when they are informed, that his first attempt was to try, what weight of stone could be buoyed up in salt water, in the half of a walnut shell. This is viewing the mechanic arts in their infancy, in an untaught

* Plate ii, fig. 1 and 2.

fisherman ; and if all knowledge could be traced, like this, to its first source, it would be found, that from trifling hints, discoveries of great importance have been made, to save time and labour.

The first experiment having answered, he made his next upon rather a larger scale, to try if he could float a proportionable quantity in an egg shell, and then in a small boat. From the result of these experiments he concluded, that if empty casks were chained to large stones, at low water, they might, with a flowing tide, and a little expence, be floated to the pier, and sunk in the place where they were wanted.

The King rewarded Young for his ingenuity, with a pension of four-pence a day for life ; and from which it may be doubted, whether he knew much more than Young of this branch of knowledge himself. They next built a vessel, with nine keels, called a Gabboth, to bring large blocks of stone to their work.

Thompson had no further object in view, when he entered on this arduous undertaking, than to carry out a head, of sufficient length into the sea, to check the velocity of the current near the shore, and to make smooth water on the east side, near the cliff ; but he had not the most distant idea of the alteration which his works would produce in the bay.

He completed about forty-nine rods of his proposed head, at a considerable expence ; and he added two groins on the south-west side of it, and there they laid large blocks of chalk, to break the force of the water. One of them was called Chapel, and the other Stoneham's groin. This additional work collected a considerable quantity of pebbles, which were driven by the current from the westward, and they hoped, that the sea would form a barrier, to screen their new head ; but this flattering prospect was of short duration ; for time and experience soon taught them, that their difficulties would increase with their work.

* Plate ii, fig. 3, 4, and 5.

As the groins filled with pebbles, they were driven forward round the ends of them with the flowing tide; and they were cast up by the sea, near the entrance of their new harbour; where they collected in such quantities, that they were apprehensive, all their endeavours to procure a harbour would prove ineffectual. Thompson thought, as many have done since his time, that the only method of preventing the pebbles from collecting on the eastern side of their work, would be to carry the end of their head into deep water, and to alter the form of it, for the pebbles to move with less obstruction, and be driven by the current cross the bay, to the foot of the cliff near the Castle.

This plan was approved of by the King, and of course it was adopted; but as they acted upon false principles, the result was disappointment.

It was proposed, that the end of the new head should be made in the form of an irregular hexagon, and a platform for guns, to defend the entrance into the harbour. This was called the Black Bulwark. As the King found timber very expensive, he began a work at some distance from the platform, but in the same direction as the head, by sinking large blocks of chalk and stone.¹ This was continued sixty rods in length, with each end turned in a different direction; and it has been called the King's Foundation, Greenway's Ledge, and the Mole Rock, which latter name it retains; but, like some other works begun by Henry the Eighth, was left unfinished, after it was raised three fathoms high in the water.

The quay, on the east side of Paradise Pent,² was made by Thompson, for shipping of goods, and to break off the force of the waves on that side. By extending the works so far into the sea, a considerable space of ground was left by the tide between Stoneham's groin, and Archcliff Fort;³ for the King built a tower, near the end of Round-tower-street, and part of it is still remaining:

¹ Place it, fig. 6.

² Fig. 7.

³ Fig. 8.

He had twenty officers in pay at a time, in carrying on his various projects. He had a treasurer, comptroller, surveyors, and overseers; and when he was at Dover, he frequently attended to the workmen himself. After spending fifty thousand pounds, he was very far from the prospect of a good harbour. Though this seemed to have been a favorite object with the King, his continental affairs, and the siege of Boulogne, entirely withdrew his attention from it. Toward the close of his reign, his growing corpulency rendered him less active; his declining health soured his temper; and his tyranizing and persecuting spirit, was so busily engaged in opposing those, who either excited his political jealousy, or offended him with their opinions, that he neglected the works which he had undertaken at this place. Before his death, he had finished Archcliff Fort; and when an inventory was taken of the stones, there were one demy-culverin, two sacres of brass, one fowler of iron, three single serpentines, twelve basses, and twelve halbensters.

As the King did not make any provision for maintaining the works, they not only remained in an unfinished state, during the reign of Edward the Sixth, but the sea made frequent depredations, in several places, for want of a timely repair. The works were too extensive for the inhabitants to support; and as their total destruction threatened the ruin of the town, they determined to apply to Queen Mary for assistance. They obtained letters patent, to collect money, for two years, through all England. This collection was very inadequate to the sums wanted; and while the works remained in a ruinous state, a large quantity of pebbles were driven over them, between the Chapel groin, and the Black Bulwark, and they nearly stopped up the entrance into the harbour; for a boat, drawing only four feet water, could not sail into it. The accumulation of the pebbles, was far beyond any thing of the kind ever remembered by the oldest man living. Though this has been recorded as a singular phenomenon, there was not any thing strange in it, or out of the regular course of nature. While the sea washed the foot of the cliff, and there were no projections to impede

the velocity of the current cross the bay, it was impossible for the pebbles to collect in any quantity, or to remain for any time; for in tempestuous weather, the waves, after striking against the perpendicular cliff, drew by the resurge into the current, all moveable bodies with it. Though Dover had been considered a rich and flourishing town, it was, by the loss of Calais, and the ruinous state of the harbour, reduced to very great distress, in the beginning of the reign of Elizabeth. To complete the destruction of the harbour, and to add to their own wretchedness, the fishermen made depredations in the works, by cutting away the timber, and knocking out the bolts to sell.

While the pier remained in this situation, it was the opinion of several persons, that a good and a commodious harbour might be made at Dover, and Sir Walter Raleigh, knight, was one of the number. In his judgment, there was no promontory, town, or haven, in Europe, so well situated as this place, for annoying the enemy, for protecting the commerce, for sending dispatches to the continent, and for receiving answers to them; and that a harbour at Dover would be a national benefit.

As Dover was considered the best situation between Portsmouth and the Thames for a harbour, an application was made to the lords of Queen Elizabeth's council, by the inhabitants, in the beginning of her reign. They endeavoured to gain the attention of their lordships, by representing to them the great use a harbour had been in times passed, for conveying intelligence, and for sending troops to the continent; and how beneficial it might be to her Majesty, and the whole nation, if it was only repaired. They further acquainted their lordships, that they had procured experienced workmen from Flanders, to survey the works, and to make a perfect plan of a harbour, which might continue for ever; and that they would undertake to complete it for sixteen thousand two hundred and odd pounds, less than any other engineers had estimated.

They added, that they had employed certain experienced Englishmen, who had surveyed, and made an estimate for repairing the decayed works ; and they had also examined the plan, and approved of it, as the best that could be produced for the purpose ; and they thought it might be finished for the sum mentioned.

The corporation assured their lordships, that if the pier was not immediately repaired, and two new groins added, according to the Dutch plan, that her Highnesses houses would all be washed away by the sea ; and the harbour would be utterly ruined, by the quantity of pebbles cast in at the new breach. The houses here mentioned, were those which had been built on the waste, and the ground let by lease in the name of the Queen.

The representation of the state of the harbour was favorably received ; but there was a difficulty of raising the money to repair the old works. It was proposed to lay a tax of two shillings and six-pence, upon every licence for a public house, for a limited number of years. But this plan being found inadequate to the purpose, it was rejected by their lordships ; and it was settled, for the Queen to grant to the town the free exportation of three thousand quarters of wheat ; ten thousand quarters of barley, or malt ; and ten thousand tons of beer. The patent was sold to John Bird, and Thomas Watts, at the rate of three shillings and four-pence, for each quarter of wheat ; two shillings and eight-pence a quarter for barley ; and the beer at one mark per ton. This privilege raised them the sum of £8,666 : 13 : 4.

To prevent any misapplication of the Queen's bounty, the Constable of Dover Castle, his lieutenant governor, and several gentlemen of the county of Kent, were appointed to superintend the works. These gentlemen, finding that the mariners had no plan for preventing the accumulating of the pebbles, nor for removing them when collected, without great labour, determined to employ some person, who was acquainted with the nature of the work they were engaged in.

John True was recommended, as a skilful engineer, and they agreed with him at a stipend of ten shillings a day.

As there was a large ridge of pebbles, reaching from the Black Bulwark, across the bay,¹ to the cliff at the Castle, True proposed building a wall behind it with stone, brought from Folkstone. This wall was to extend from the water-gate, above the hole in the wall, to the Black Bulwark ;² and it was intended to confine a sufficient quantity of water to remove the pebbles, as they collected at the entrance of the harbour. True's plan appeared to the commissioners a good one, but he was, like most other persons employed in public works, desirous of securing an annuity for life.

This work was undertaken, without first counting the cost ; and when True had expended about £1500, in squaring of stone, and making preparations, the commissioners thought, that what he had done, was by no means equal to the sum advanced ; and that £100,000, would not build the wall, at the rate they were going on ; and they suspected that True was protracting the work.

As their suspicions were raised, and they were fearful, that the wall might not answer ; and that they might be censured for expending so large a sum upon an useless project ; they dismissed the engineer from their service. They next employed Ferdinand Poins, who was recommended to them for his skill in constructing works to fence against the sea, on the coasts of Flanders, and Holland.

The commissioners pointed out to Poins the difficulty they had to contend with, in keeping the entrance into the harbour open ; and they asked him how the pebbles could be expeditiously removed when driven into it. Poins approved of True's plan in penning up the water, and he proposed some additional works ; and he so far satisfied his employers, that they advanced him one thousand pounds to begin the arduous undertaking.

¹ Plate iii, fig. 1, 4, and 5. ² Fig. 2 and 3.

He first repaired the breaches made in Thompson's works; and at the end of the ridge of pebbles, and opposite to the Black Bulwark, he made a large groin, to confine the back water to a narrow channel, that it might act with greater force in removing the pebbles from the entrance into the harbour.

When the engineer had expended about twelve hundred pounds, the commissioners complained of his charge, and how little he had done for so large a sum. They were unanimous in their opinion, that his plan was a good one; and while they were doubting whether they should have money to finish it, Thomas, son of Leonard Diggs, of Wootten, an engineer, and mathematician, who had been muster master to the forces sent into the Netherlands, about the year 1582, addressed a discourse to the Queen, on the great advantage of a harbour at Dover, to her Majesty, and the nation.. He presented plans of his own drawing, as improvements on several Flemish plans, which had been offered ; but they were too expensive to be adopted.*

In one of their plans, they proposed inclosing the whole bay, between Thompson's works, and the angle in the wall near the old harbour, or the postern gate, with two immense heads, formed of large piles, and filled in with large stones. A tower was to be erected at the termination, to defend the entrance into the harbour, which, by the plan, would have been opposite to Snargate.

This plan was rejected, as an impracticable project; and another was proposed, on a contracted scale.

Every engineer, who was consulted, seemed to entertain an idea, that the extending the south head further into the sea, would be the means of setting the pebbles into deep water; and they would then be driven, by the strength of the current, cross the bay.

There was a third scheme, to cut a passage through the town, between the postern and Saint Helen's gate; and to have a harbour

* Plate iv, fig. 1.

² Plate v, fig. 1, 2, 3, 4, and 5.

in the meadows, near Stembrook; and as this was the most absurd of the three, it was lately proposed for the consideration of the Warden; but it is hoped that death hath laid such a visionary scheme asleep. As the commissioners were incompetent judges of the matter, they consulted Mr. Diggs, who, during his residence in Flanders, had paid a particular attention to their artificial harbours, which they had made at an immense expence; and which, he said, had been the means of aggrandizing their country by commerce, and of raising up several populous towns.

He reprobated the narrow policy of several individuals in England, for fencing in lands on the coast; as it had been the means of ruining several natural bays, and harbours, which had brought misery, and desolation, to our frontier towns. In his opinion, the poverty, and decay of Winchelsea, Rye, Romney, Hythe, and Dover, proceeded from the choaking up of their harbours, and havens. He used several strong arguments, and some which would, at this time, be deemed trifling, to gain the attention of the Queen to adopt his plans.

Mr. Diggs had taken great pains to make himself master, as he thought, of every particular necessary to produce a good harbour, at this place. He had sounded, and taken the setting of the current, when ebbing and flowing; and the depth of the water at the Mole, at the neap and spring tides.

In an examination, taken at Dover, by the Lord High Admiral of England, in 1581, to inquire into the state of the harbour, there is a particular account of the alterations which had taken place in the bay, in consequence of the works which had been built into the sea, in the time of Henry the Eighth.

The old mariners declared, that, within their memories, the bay was open, and free from any banks of sand and pebbles, from Archcliff Fort to the Castle; and that the whole space was sea, until the projections were made cross the setting of the current.

They said, in their examination, that they had learned by experience, that as the works had been extended, and groins had been added, they were filled with pebbles; and when they were full, they passed round the ends of them, and were driven by the setting of the current into the bay. If the sea made a breach in the works, and flowed over them, then the pebbles were driven, either to the eastward, or nearer to the foot of the cliff. At the time the inquiry was made, the only passage into the harbour was made by the ebbing of the tide, and the stream of fresh water. By the entrance into the harbour, they meant the passage between Poins' groin,¹ and the Black Bulwark. They said, that this ridge had formerly shifted; and that the houses built upon the waste, were then in danger of being washed away; and in these instances, the pebbles accumulated in the bay.

The bank formed by them, with the mud and sand in the bay, was so closely incorporated, as to confine the water before the town, in a standing pool, twelve feet higher than the sea at low water mark, at neap tides. At every spring it raised the pool six feet before Pennyless Bench; and at that place a rod, nine feet long, could not reach the bottom. At the Mole Head, which was built with timber, there were about twenty-two feet of water at spring tides; and the ebbing was much swifter than the flowing current; and the velocity was greater without, than within the Mole.

In the year 1581, there was a violent tempest, which caused the sea to flow over the works, and choaked up the entrance into the harbour; and a ridge of pebbles was formed in the bay, in a short space of time, three hundred feet long, and near the crane, ships drawing from eighteen to twenty feet of water, had laid close to the bank. They had, at one time, the Faucon, the Sacre, the Bolougne, the Greyhound, the Rose Lion, the George and the Dragon, all of the royal navy.

¹ Plate iv, fig. 1 and 2.

The old harbour, or Paradise pent, was so far stopped up with mud, that they were obliged to carry it out by hand, to keep open a passage for their own small boats.

This was the situation of the bay, and the harbour, when Mr. Diggs offered his plans to the Queen; and if they were adopted, he advised the making use of the foundations laid by Henry the Eighth, as much as possible; as it would save £20,000, at the least. He proposed to have all the works done by contract, and to have one or two rods, of each part, finished in a substantial manner, to enable them to judge how to make an estimate for the whole. This, he said, would be the means of saving the expence of a long list of officers; and it would prevent many idle persons from being employed, as was the case in the time of Henry the Eighth; who had generally twenty officers in his pay; when a surveyor, to see the work properly done, would have been sufficient.

He said, his plans might be finished for less than one half of what it would cost for the Flemish plans; and it would prevent a prodigious waste of timber; and be kept in repair upon much easier terms.

He also considered his plans, as having greatly the preference, as he had provided for sluices, flood-gates, a loek, a back water, and an inclosed bay before the town, where ships might either ride at anchor, or lie on dry ground.

The lands gained from the sea, he calculated at the annual rent of one hundred pounds, to be let by the Queen, on lease, either for a term, or three lives.

At the expiration of a term of twenty-one years, he considered the land would be worth one thousand marks yearly to the crown, exclusive of what might be made of the long bay, and of the waste under the Castle.

In this calculation, he reckoned that one half of the rents of the lands, and the sums arising from the head money, and the half passage money, would be sufficient to keep the new pier in repair, and the other

moiety would be clear to the crown; with an increasing revenue from the custom house.

This flattering representation induced the Queen to listen to Mr. Diggs' memorial, and the petition from the inhabitants was favorably received; and, in 1581, an act passed for raising supplies for Dover harbour.

The money granted by this statute, was three-pence a ton upon every vessel, loading or unloading, in any port within the realm, for seven years. Three halfpence on every chaldron of coals, and the same for every grindstone landed for sale.

With this prospect of a supply, though only for a limited time, the commissioners determined to make a reservoir for water, to cleanse the harbour; and Mr. Diggs insisted, that this might be done for one fourth part of the sum it would cost to build a wall with stone; by making use of the bank which had been formed by the sea, and raising it several feet above high water mark.

One rod of this work, he computed, might be completed with two lighters, and eight men, for twenty nobles, and secured with two groins.

The commissioners resolved on adopting Mr. Diggs' plan; but it was opposed by two shipwrights, Baker and Pett, who insisted, that nothing but a fence, made of wood, could answer; and they produced a model of their design. This was objected to by the commissioners, as being very expensive; and they were doubtful of its answering, as they did not know that it had been tried at any other place. They concluded, that the plan pursued to keep the sea out of Romney Marsh, might answer at Dover; and they sent there for men to begin the work.

Experience had now taught the commissioners, that the granting a large sum, at the beginning, was a bad practice; and as they wished to expend the supplies with economy, they appointed Sir James Hales, treasurer, to keep an account of all sums received by

him, and paid ; and he was to have five shillings and eight-pence, for every fifty pounds which passed through his hands. He had a clerk, with a salary of five pounds a year. Mr. Diggs was the head engineer, with a yearly stipend of twenty pounds, which he gave to his deputy, Alexander Mindge.

The wall¹ was begun in 1583, under the inspection of two of the commissioners, and the bay was then nearly in the state as represented in the second plan.

Sir John Scott attended the labourers at work on the wall cross the bay, which was seventy feet wide at the bottom ; but it gradually diminished to forty, when finished, on the top. The sides were raised with mud, covered with faggots, fixed down with piles. Richard Barry, Esq. superintended the men on the wall,² at the bottom of the pent, in which was laid a small sluice,³ to let off the superfluous water.

Under such inspectors, the work was carried on with spirit; and what would have required several years, in the common routine of business, was completed in three months. The wages for a man, a horse, and a cart, were one shilling a day. The single cart, or tumbrel, was fourteen feet in length, two feet wide, and sixteen inches deep. The double cart, with two horses, and as many men, received two shillings a day. Trifling as this pay may now appear, it was at that time thought worth notice ; and carts were sent from Maidstone, and Sevenoaks, to Dover, and they had more than they could employ at their works.

The expence for inclosing the part of the bay, now called the Pent, amounted to £2700; and though this sum exceeded Mr. Diggs' estimate, it is a proof of what may be done, where men think themselves accountable for the prudent expenditure of the public money. The wall answered their expectations, in confining the

¹ Plate vi, fig. 3.

² Fig. 4.

³ Fig. 5.

water, and the next step was to make it useful, in cleansing Paradise pent, and in removing such obstructions, as might occasionally lodge between Poins' groin, and the Black Bulwark.¹

As the water could not be conveyed from the inclosed bay, through their harbour, without additional works, they erected a new jetty, on 'the eastern side of Paradise pent,' with a double row of piles, filled with blocks of chalk, where Strand-street has since been built; and near the cliff there was a lock, with flood gates, to let vessels pass into the inclosed bay, to lie at anchor, or at their mooring, before the town. The lock, the gates, and the capstan to open them, were estimated at £795:

Mr. Diggs proposed placing a double sluice at the stone bridge, near the Hole in the Wall, to turn the current of fresh water, either into the harbour, or to fill a basin, he intended to make, near the postern gate.

This reservoir, he designed, should be ready at all times for removing obstructions, if the sea should make a breach in the new wall, and drive any sand, or pebbles, into the pent. This sluice was to serve as a lock, for boats to pass through, to a place of security, if any accident should happen to the works below.

He intended also to have a canal, at the back of the houses under the cliff, to supply them with fresh water, and to convey the current into Paradise pent. The digging the canal, and the facing it with stone, and the putting down the sluices, he estimated at £500; but he concluded that the landlords would pay a moiety of the expence of the canal, for the benefit of having fresh water running near their doors.

At the entrance into Paradise pent, near the end of Strand-street, Mr. Diggs proposed a pair of flood-gates, twenty-four feet wide and seventeen high, which he estimated at £400. On the south-

¹ Plate vi, fig. 1 and 2.

² Fig. 6.

³ Fig. 7.

west side of the gates, he built a large stone sluice, to deliver the water near the bar, at the Black Bulwark. This sluice, with the engine for working it; and the store house, with the Queen's effigy in front, to shew that she was the patroness of the harbour, were estimated to cost £1000.

It was the opinion of Mr. Diggs, that this sluice would, by the force and fall of the water, remove every obstruction; even if the entrance into the harbour should be stopped by a bar of pebbles. In running this sluice, he found, by experience, it would be necessary to confine the water to a narrow current, and he added a jetty on the eastern side of it.*

This so far answered their purpose, as to remove the bar without labour; but the current was set, by the jetty, against the old pile work put down by Thompson; and it washed away the foundation of the Black Bulwark, and of Poins' groin; and they soon became in a ruinous state. This was not foreseen by the engineer; for he considered that he had nearly completed his plan.

Though the act of the thirty-first of Elizabeth was nearly expiring, Mr. Diggs prepared for several additional works, to prevent the damage which might follow, by suffering the loss of the bulwark, and the groin; as it would ruin the entrance into the harbour.

In the year 1592, the wall was continued, from the angle, at the bottom of the pent, near the York hotel, to Poins' groin; and it was made with the mud, cast out of the space below the pent. This wall inclosed the scites of the present store houses, the wharfs, and the basin.

In the following year, Mr. Diggs offered a plan for making several additions; but as money was wanting, he added only a small work with piles, to prevent the pebbles being washed away from the end of the new wall.

* Plate vi, fig. 9.

* Fig. vii, fig. 1, 2, and 3.

In the year 1598, the commissioners petitioned for a continuance of the last act, to enable them to complete their work ; and it was prolonged until the first sessions of the next parliament, unless it should be repealed. With this grant, Mr. Diggs nearly completed the outline of the present harbour.

In making the last wall, he cleared a large space below the pent, which became the principal harbour, and it was called Great Paradise.

About the year 1594, the north head was extended, from the end of the new wall, over the groins¹ made by the Dutch engineer. The jetty was extended in the direction between Paradise pent and Colbran's head ; and the south head was carried further into the sea ; and it has remained, with but little alteration, to our time.

But Mr. Diggs' skill was put to the trial in preserving the wall, cross the bay, against the force of the sea, in tempestuous weather. He found that, by the shifting of the pebbles, the wall could not resist the continual beating of the waves upon it; and he has left us a proof of his sound judgment in fencing against the sea ; but it has passed unnoticed to those who have had the direction of the harbour.

To secure the wall below the angle of the pent, near the York hotel, he made a jetty, with piles, from ten to twelve inches square, and upwards of twenty-five feet high, with a space of six inches between each pile, to secure Great Paradise pent. They were well bolted together with iron, and filled in behind with sand stones. This open kind of jetty work not only considerably lessened the force of the waves,² but the resurge ; and in moderate weather, the pebbles collected at the foot of it.

To secure the wall in the bosom of the bay, he adopted a different plan ; and the remaining works plainly shew, that he had attended to the setting of the current, and the action of the waves on the pebbles cast on the shore. In the deepest part of the curve in

¹ Plate vii, fig. 4.

² Plate viii, fig. 1.

the bay, the waves beat with their greatest force on the wall; and, with a view of weakening the strength of the current in the bay, and the force of the waves at that place, he constructed a work, in the form of two inclined planes, about sixty feet wide, and sloping from the middle, down each side, and placed as the chord of an arch, in the bottom of the bay.

In the front of the work next the sea, there were five rows of piles, and a space of twelve feet between each, and about one foot between each pile in the same row. The front row was nearly level with the sand, and it was gradually raised with large stones, between each row of piles.

Mr. Diggs described this work, as being cross-bound, with long beams, and cross beams, and cross piles; and he considered it the best calculated of any kind of work, to resist the force of the sea, and that it might be maintained at a small expence. In estimating the cost of this work, he proposed to have in the jetty twelve piles to a rod, each nearly thirty feet long, and one square, which would be about four loads of timber. The cross beams, and pile-work, he reckoned at ten loads more, and the fourteen loads he valued at twenty pounds. The workmanship, the carriage of the stone, the iron bolts, the arming of the piles, and what he called the ram-forcing of the frames, he estimated at twenty pounds, which made forty pounds for a rod of this work. Immediately behind the piles,¹ there was a frame of timber, strongly bolted together, sloping down from the middle of the work; and at the east end there was a head,² carried in an oblique direction, between fifty and sixty feet towards the pent wall. Though this work saved the pent, and its use is evident to those who have attended to the subject, yet this master-piece of Mr. Diggs' art has hitherto been disregarded, by those who have had the direction of the works of the

¹ Plate viii, fig. 2.

² Fig. 3.

³ Fig. 4.

⁴ Fig. 9.

harbour. The figures 5, 6, 7, and 8, are for the rope-walk, the basin, the storehouses, and the harbour.

It was the opinion of Mr. Diggs, that an invading enemy would never attempt to land, either on the eastern or the western side of Dover, as their progress could be so easily impeded from the high cliffs; and if they endeavoured to annoy the town, they could only do it by sailing up the harbour, or by landing in the bay, or near the groins made by Thompson.

Archcliff Fort was intended to defend the pier on the south west. The platform on the bulwark, was to prevent the approach of the enemy, near the Mole, and from entering the harbour. On the north side there was a platform on the jetty, with several pieces of ordnance, to flank the bay; and the fort, under the Castle, was designed for that purpose; and they had cannon in the round tower, which pointed down the harbour.

On the waste ground, in the pier, there was a convenient place reserved, to assemble a body of soldiers, with sufficient space for them to march to the battery on the jetty in the bay. With all these works, Dover was considered to be as strongly fortified, as Flushing, or Antwerp, or any other place on the coast of Flanders.

About the year 1597, experience had taught them, that the sluice, which had been laid at the bottom of the pent, was not only too small, but at too great a distance from the bulwark, to deliver the water with effect, in any given time; and it was of but little service in cleansing Great Paradise, or the then outward harbour.

To remedy this defect, it was proposed, to have a new double sluice, thirteen feet deep, and eighty feet long. Lord Cobham was Warden at that time; and while it was doing, he superintended the workmen; and kept an open table, to encourage them, during the month they were about it.

Towards the close of the reign of Elizabeth, or very soon after James ascended the throne, the corporation had contrived to get the

affairs of the harbour into their hands ; at least, all the revenue of it went through them, and they claimed the waste land left by the sea, near the town.

In the first year of the reign of James, they obtained an act, to continue the usual supplies for the repairs of the harbour.

The Earl of Northampton being the Warden, he judged it expedient to examine into the state of the town, and of the pier ; and to lay the result of his inquiry before the King. Whether the Earl had any reason to be dissatisfied with the proceedings of the corporation, or whether he wished to have the principal direction of the business himself, will be too much to assert upon conjecture ; but one thing is certain, that his application to the King was introductory to a new arrangement of the officers of the harbour.

The King, in consequence of the Earl's report, demanded of the corporation a surrender of all claims, which they might pretend to have, to the duties, droits, and waste lands, belonging to the pier.

As the command was positive, it was not to be evaded by excuse ; and they appointed Thomas Rogers, gentleman, and John Godwin, merchant, their attorneys, to acknowledge their deed of surrender, in the court of chancery, or in any other court belonging to the King.

In the surrender, which was made in the fourth year of the reign of James, the mayor and commonalty declared, that for divers good causes, them thereunto moving, all and singular the craneage, sluiceage, ballastage, harbourage, or tonnage of strangers, capstanage, wharfage, rivage, passage, and half passage, in any ways arising, and which had been payable to the mayor, jurats, and commonalty, from any vessel, boat, or passenger, or from any wares or merchandize, either imported or exported, with every right or demand, excepting, and always reserving to themselves, and their successors, the rivage and tonnage granted by Queen Mary, by her letters patent, and excepting the privileges which belonged to individuals, and which were not in their power to grant, they gave to the King.

Though the mayor, and his brethren, were obliged to surrender the revenue of the harbour, they continued to be appointed the farmers and the receivers of it; for, in the reign of Charles the First, they demised, and let to Arnold Braems, all the duties and droits, payable to the harbour, for the yearly sum of three hundred pounds, to be paid at the court hall, in equal proportions, every month. In this lease they excepted the share of the ferry-boat, and the fees of the pounder of the town gate, taken of all persons for goods landed or shipped at the port. They also excepted head money of ambassadors, and their suites, whether natives or strangers, and several other articles, as may be seen in a schedule of duties and droits.

The King, in the year 1606, granted to the Warden, and certain persons named in his charter, all his right and title to the duties and waste lands belonging to the harbour; and he created them a body corporate, called the Warden, and his Assistants; and they were to hold their office, while they continued diligent in the duties of it. They were to have power to purchase, receive, and possess goods, chattels, lands, and tenements in fee, and in perpetuity; and to let and assign the same; and to plead, and be impleaded, in any of the courts of law.

From the death or removal of any of the assistants (excepting the Warden, the Mayor of Dover, the Lieutenant Governor of the Castle, and those who held by virtue of their office), the commissioners might nominate and appoint another discreet person to fill up the vacancy, who was to hold his place, on the same terms as his predecessor.

They were permitted to have a common seal, a treasurer, a surveyor, a collector of the rents, and of the revenue of the harbour, and a clerk, and as many inferior officers, as might be deemed necessary, who were to be obedient to the Warden and his assistants.

The commissioners were to have an apartment, near the town, to transact business in; and full power to enact laws, for regulating the

affairs of the harbour ; and to amerce, or imprison, all those who opposed them.

Their fines were to be applied for the benefit of the port. Their laws and their decrees were to be confirmed by the Warden ; but they were not to be of any force against the laws of the realm.

The King also granted to them all the waste land and beach left by the sea ; and they were to hold of him in fee, and in common socage, and not in capite, knight's service, or any rent.

As the Warden, and his assistants, held their offices, upon the express condition of their being active and diligent in their stations, they agreed, first, to consult some person, either from Flanders or Holland, who had knowledge of fencing against the sea.

From the report of their engineer, it appeared, that the large sluice, which was laid when Lord Cobham was Warden, was done in an unskilful manner, for it had been laid upon the pebbles ; and he advised them to clear away the dam down to the rock, that it might deliver a larger quantity of water in less time.

The square pile work, which was done in 1593, was so low, that the pebbles were driven over it, into the harbour, in tempestuous weather, and there was an order for raising it. This seems to have been the principal improvement in the reign of James.

When the statute expired for granting supplies, the parliament was deeply engaged in disputes relative to the palatinate, and remonstrating on the grievances of the subject, and in passing laws for granting subsidies, which prevented the Warden and his assistants from applying for a renewal of parliamentary aid. The confusion which had prevailed in public affairs, was afterwards considerably increased ; and there appears to have been a lapse of nearly forty years, before there was another application for a public grant to repair the harbour.

In a memorial, without date, which was probably drawn between the years 1660 and 1662, several particulars are recited, from Henry the Eighth, to the civil wars ; but as no mention is made of any grant

to Dover harbour, it may be inferred, that it was presented in the time of Charles the Second, and further aid was granted.

Dover is described, in the memorial, as being situated in the narrow seas, opposite to France, and a port, where many great personages, foreign ambassadors, and strangers, usually landed, and found good accommodations, to forward them on their journey.

It also mentioned Dover being the principal seat of the jurisdiction of the Cinque Ports, and the greatest storehouse for provisions for his Majesty's navy; and that one of the chief victualling-offices for his fleet was in the town.

It said, the advantages of the harbour were clearly seen in the last war with Holland, and France; for it afforded protection for ships of the lowest rate, when the enemy were too strong for them; and they could cruise to advantage in the channel, as they could secure their prizes in a few hours. As it was the chief port between Portsmouth and Harwich, its importance to merchants was very great; for their ships, in cases of accidents, and in storms, could put in and refit. The customs, before the civil wars, amounted to £50,000. His Majesty's frigates, from the Downs, and the North Sea, came in to victual, wash, and tallow, and sailed again in a few tides.

It further said, that the port is, and always had been, a nursery for seamen, and a proper situation for pilots to take charge of ships, either in his Majesty's, or the merchant service; and it concluded with saying, that if some remedy be not taken to prevent the impending danger, not only the harbour, but the town, and some hundreds of families, would be involved in one common ruin.

As Dover was reduced to this situation, a further aid was granted in the reign of Charles the Second.

To prevent any misapplication of the supplies, the Warden and his assistants, with the Master and Wardens of the Trinity House, at Deptford, for the time being, had authority to appoint a proper person to inspect the work done; and once in each year, during the

continuance of the act, to demand an account of the respective sums received, and paid, and to examine if the money had been properly applied; and if, upon inspection, they found the harbour in sufficient repair, they were to report the same to the Lords of his Majesty's Privy Council, who had then full power to suspend any further receipts under the statute.

The sum to be raised was not to exceed £30,000, and with it they judged, that they could not only repair, but sufficiently improve, the harbour.

As the north and south heads were run so far into the sea, it was found necessary to increase the quantity of back water; and this led to the parting off Paradise pent, and forming the basin.

About the year 1676, the Barons of the Exchequer issued a commission to require, and empower several persons to point out the limits of the port of Dover, on the side next the sea; and also the quays and wharfs in the harbour; and William Stokes, mayor, Giles Dunstan, Richard Breton, Walter Braems, John Matson, and James Housemain, were named to make the survey, and to report upon it.

In the return which they made, they mention, that, on the twentieth day of January, 1676, and on several of the following days, they went to view the open bays on the coast, and they described the limits of the port of Dover, as follows:—

From the town to the South Foreland, bearing east, four miles; and from thence, to the Godwin Sands, the same distance from the shore; and in twelve fathom water at the time of the ebb.

From the Godwin Sands, they continued the boundary line south-west by west, to a point, near the promontory, called East-ware Bay, four miles distant from the shore, and in the same depth of water. From East-ware point, to Dover pier head, north-north-east, and from the head, north-north-west, to the bridge over the sluice.

The quays and wharfs, for shipping and landing goods, wares, and merchandize, are also mentioned, and particularly described. Crane quay, from the crane thirty-six feet west-north-west, to a post fixed at the end of it. This was the wharf near the harbour house.

The next was called James Hammont's quay, and it measured, from a post at the south-west by south, and to another north-east by north, fifty-five feet. This quay was bounded by the house of the said James Hammont west-north-west, and by the harbour east-south-east.

The next is described as belonging to several of the inhabitants, and measuring six hundred and fifty-seven feet, from the end of Brinder's quay, to the north part of Major Braems' quay. The breadth, at the south end, twenty-four feet, and at the north, thirty-six feet.

The fourth was John Matson's quay, which measured, on the west side of his warehouse, forty-five feet, and from thence, towards the north, thirty-five feet.

The quay belonging to the new buildings was the property of Braems, and it measured, from the north-east to the south-west end, two hundred and seventy-six feet. This quay was bounded, by the new warehouses north-east, and the harbour south-west.

A considerable part of these wharfs belonged to the commissioners, or their relations; and to prevent any more quays from being made, at any other parts of the harbour, they declared, that, by virtue of their power, they prohibited and debarred any other place, within the limits of the port, as they had described them, from having any right or privilege of a wharf, for shipping or landing any goods, wares, or merchandize; excepting, and reserving, the rights and privileges which belonged to the customer, collector, and comptroller of the port.

About this time, there was a plan in agitation for making Dover a free port, and a considerable sum was offered, by certain persons,

to obtain the privileges; and it was intended to have confined, as much as possible, the benefit of landing and shipping merchandize, to certain quays. Great preparations were made for it; but the scheme proved abortive.

The Warden and his assistants, after the expiration of their last act, were confined to the income arising from the rents of the lands; and in about thirty years the harbour was again in a ruinous state.

Sir Henry Shears, knight, in the petition, represented the pier as choaked up with sand and pebbles, and so much out of repair, that it would soon become useless to the inhabitants, and to the nation, if something was not done to prevent it.

To shew that a harbour at this place was of importance to the public, he mentioned, that, in the year 1652, a squadron of ships, of the fourth and fifth rates, came in to refit, and victual; and several of them sailed again the next day. At that time, there were eleven feet of water at the neap, and twenty-two at spring tides; and that Charles the Second ascribed his successes at sea, to his ships using Dover harbour.

He further stated, that, in the year 1689, a fleet, of about seventy sail of merchant ships, were driven into Dover harbour, without anchors or cables, which must either have been lost, or fallen into the hands of the enemy; and several transports, in the year 1693, were saved, by seeking shelter in the pier.

He stated, that Breton, Macky, and Harvey, three masters of packets, were obliged to sail to the Downs, because there was not sufficient water for them in the harbour; and, by reason of frequent complaints, they had received orders from the post-office to land the mails at Deal.

Breton, in his examination, said, that, about twenty years since, he knew a ship of six hundred tons, laden with tobacco, enter the harbour; and if his Majesty had not, upon the representation of Sir.

Cloudsley Shovel, and others, advanced five hundred pounds, in the year 1698, the harbour would have been entirely lost.

To shew the great decrease of trade, in consequence of the bad state of the pier, the petitioners said, formerly £20,000 had been received at the custom-house for duties; but, within the last twenty years, hardly any thing; and the inhabitants were reduced to so low a state, that they could not pay the ground rent due to the harbour, neither could they get more than £150 a year.

Sir Henry concluded his petition with saying, the act of Charles the Second produced no more than £9000; but he was unacquainted with what sums had been received under prior statutes, as their books were damaged; and such was the state of the harbour, that it would require £30,100 to repair it; but they might proceed, if they could raise six or seven thousand pounds a year.

This application produced the act of the eleventh and twelfth of William the Third, which was to continue in force until the year 1709; unless they received the sum they had mentioned, and then it was to cease. The obtaining this act cost the Warden and his assistants £488 : 14 : 11; and it shews, even at that time, those who were employed, knew how to charge for time, trouble, and expences.

The duties, under the act, were to be paid to the treasurer of the harbour monthly; but as such payments might not be sufficient, he, with the consent of the Warden and his assistants, might borrow £6000, for five years.

The customer, the collector, or their deputies, and the treasurer, were to keep separate accounts of all the sums which passed through their hands, for the use of the harbour; and all persons were to have free access to them, at reasonable hours, without paying any fee. If there was any neglect in collecting the duties, or in keeping of the books, the offender was liable to a fine of twenty pounds, which might be recovered, in the name of the Warden and his assistants, as an action of debt; and they were once in every year, at least, to in-

spect the accounts ; and if they found any fraud or embezzlement, the offender, upon conviction, was to pay five pounds, for the use of the harbour.

The accounts were to be passed, upon oath, before the justices for the eastern division of the county, at their Midsummer quarter-sessions ; and if they were approved of by seven or more of them, they were to be transmitted, by their clerk, to the commissioners of his Majesty's navy, and they were to remain in their office, for persons to have access to, at all reasonable times, without paying any fee.

There was a difficulty in raising money under the act, as the security was only for five years ; and they applied again to parliament to have the statute prolonged ; and the request was granted, until the year 1718.

Every master of a vessel, for going through the gates with their sails set, was to forfeit fifteen shillings, and five for casting dirt into the harbour.

The money collected, upon the two last-mentioned statutes, amounted to no more than £20,876 : 5, which was nearly one-third less than they expected ; and they had expended £20,196 : 13 : 1 ; and they petitioned, that the statute might be continued until the year 1727.

There is but little known how the money was expended after the death of Mr. Diggs, as there were no additional works ; it may be concluded, that repairs and fruitless experiments, to prevent the accumulation of the pebbles, exhausted the fund ; and the Warden, finding that they did not make any progress in preventing the evil, determined to consult some person, who might possess more knowledge of the business than themselves.

Captain Perry was, at that time, considered as a competent judge of such works, and they consulted him about the year 1718, and he gave it as his opinion, that the south head should be carried one hun-

dred and fifty or two hundred feet, beyond the north head, and groins made to stop the pebbles coming from the westward.

He estimated, what he recommended, at £35,000 ; and as there was a doubt whether it would answer, his plan was not adopted.

To try what effect groins would produce on the south-west side of the pier, they built Cheeseman's head, which was carried down nearly to low water mark ; and this was the only additional work attempted.

It was about this time, that the Warden and his assistants acquired the title of Commissioners ; and as they lived at a distance from the town, and were chosen more by their rent-roll, than their knowledge of harbours, they concluded, that they had discharged their duty by auditing the accounts twice in the year ; and the most essential part was left to be conducted by the mayor and his brethren.

Henry Matson, a merchant of the town, devised, by will, an annuity of one hundred and fifty pounds for ever, to be paid out of his landed estate, to be applied towards the repairs of Dover harbour. It is said, that as he was walking round the pier, and pointing out some defects in the work, he let a gold-headed cane, which he very much valued, slip through a hole in a plank, and he could not regain it; and he left the annuity on this condition, that such holes in the timber might not be suffered in future. He said, that he had observed many great omissions in the workmen, in their not stopping up the trunnel holes in the piles, and the planks used in the harbour; by which neglect they were broken asunder, and worn out in half the time they would otherwise have been ; therefore the Warden and his assistants, upon notice being given, were to take care and have all the trunnel holes stopped ; and constantly kept so, or to forfeit the benefit of the annuity. He also entailed, upon the same estate, an annuity of forty pounds for ever, to be paid to any poor relations descended from his family, and by the name of Matson.

His will produced a suit in chancery, and it was finally decreed, that the landed estate should be the property of the Warden and his

assistants, for the use of the harbour, upon their paying the annuity to the donor's poor relatives.

By this decree, the farm of Solton, in the parish of Langdon, Barham mill, and Diggs' place, with Horsehead, and Singlish, all went from the family of Matson, without answering the design of the devisor.

The ceremony of stopping up the trunnel holes was soon reduced to a farce. The mayor, and two or three of his brethren, once in a year, appointed a day for driving in a few trunnels; and the fatigue being over, they retired to a supper; and this has been considered as fulfilling the will of Mr. Matson.

In the year 1723, the commissioners had a competitor for a part of their revenue.

The corporation of the town of Rye had for some time adopted the practice of fencing against the sea, and of course obstructing the tide flowing into the haven; which had hastened the gradual operations of nature so rapidly, that they were in danger of losing their harbour.

As they had failed at Dover in procuring such a pier as the public expected, for the want of skilful men to direct and superintend the works, they were encouraged, at Rye, to petition for a part of the revenue, which had so long been granted to Dover, to enable them to make a secure place for ships.

In the ninth year of George the First, they obtained an act, to receive two-thirds of the tonnage duty, which had been paid to Dover, to enable them to cleanse, and enlarge their haven. The Warden of the Cinque Ports was appointed to inspect the proceedings at Rye.

In the year 1737, it was found necessary to put down a pair of new gates in the cross wall, and to make two sluices of stone, and to face the passage into the basin, and each side of the wall, for several feet, with the same materials; and this work was finished in about a year.

The inhabitants experienced great inconvenience, in not having a passage over the wall, and they petitioned for a swing bridge, which was granted them. It was about this time, that the commissioners agreed to put down a pair of gates, for the admission of vessels into the pent; as it had been but of little use, from the time of stopping up the canal, which led to it from Paradise pent.

This was executed, as works generally are, where there is no plan for the different parts to correspond, to form one complete whole; for in fixing the sill, and the apron for the gates, they were laid four feet and one half above the level of the sill in the cross wall. When this work was finished, from the straightness of the entrance, and the injudicious manner of laying the apron so high, the pent still remained inaccessible to vessels of any burthen.

After this feeble attempt in making improvements, there were hardly any new works undertaken, until the year 1753; when they made a head, one hundred and seventy-six feet in length, into the sea, under the Castle cliff. This work was intended to prevent the current driving the pebbles out of the bay before the town; and it answered a very good purpose.

Upwards of £22,926 had been expended, between granting the act, in the reign of George the First, and the year 1757; and they were then far from having a good harbour. Some time after, there was a general public complaint, that large sums had been granted for a harbour at Dover, which could not be made any use of, when most wanted. To silence the complaints of the merchants, the commissioners applied to Mr. Smeaton, and he made his report in 1769.

When a person of Mr. Smeaton's eminence was applied to for advice, it was necessary for him to say something; but, as he had never been a resident at the place, to observe the setting of the current, and the effects produced by carrying out projections to impede it, he could know but little more of the matter than his employers.

He proposed extending the south pier head sixty feet further into the sea, and to terminate it nearly in a point; as this would, in his opinion, set the pebbles into the deep water, to the eastward of the mouth of the harbour. This error had prevailed from the reign of Henry the Eighth, and still continues, in defiance of all experience of the passed, by not knowing what has been done, and the not making accurate observations. If his first plan failed, he proposed making new sluices, to deliver the back water nearer the bar, to remove more expeditiously an evil they could not prevent.

As there was no certainty of success, and they had but little money to expend upon trying experiments, there was nothing attempted, and they continued, as they had done, several years more.

While the Earl of Holderness was Warden of the Cinque Ports, he observed, that considerable sums had been expended, under the direction of the corporation, without any view to the improving of the harbour; and he thought it a duty annexed to his office, to inquire into the nature of the business.

He first consulted the ancient pilots and mariners of the town, who, he judged, would know more of the local situation of the place, than strangers; and how to prevent a bar from forming at the mouth of the harbour.

They gave such contradictory answers to the questions he put to them, that he was convinced they had never attended to the matter, and that it would be necessary to seek for some person, who, by his skill and abilities, might assist them in counteracting the difficulties they had to contend with.

Mr. Nickalls was judged to be a proper person; and he delivered his report, and a plan for a good harbour, according to the orders of sessions, in April and September, 1782. He said, that the harbour at Dover could never be considered as a national object, unless a plan could be adopted, to make it capable of receiving large ships; and there were only ten feet six inches of water, at the apron in the cross

wall, at neap tides, and they were in effect reduced to nine, by laying the sill of the gates eighteen inches higher than they ought to have done.

With so small a quantity of back water, at neap tides, he informed them, that it would be impossible to remove a bar, and keep open a harbour, and especially, as a considerable quantity of the back water was lost, by leaking through the works.

The form of the pent he considered as a very great defect, which ought to be remedied. It was too narrow at the upper part; and the great declivity from the outside to the middle, and from the three-gun battery to the sluice at the bridge, prevented it from receiving more than forty-seven thousand one hundred and sixty tuns of water at neap tides. This small quantity, when united with that in the bason, and discharged by turning gates, in the least time possible, into the outer harbour, would not cover the surface of it more than thirty inches deep; and it was totally inadequate to the force required; and without considerable alterations, a bar, formed at the neap, must remain until the spring tides.

To remedy these defects, Mr. Nickalls proposed increasing the area of the pent,¹ to about thirteen acres and one half, which he considered as a very large bason of water.

The deepest part of the bed of the pent being four feet six inches higher than the apron in the cross wall, he proposed sinking the whole space to a level with it; and the same of the area of the bason.

This would give from seventeen to eighteen feet of water, at neap tides; and at the spring, from seventeen to twenty-four feet.

By extending the heads two hundred feet further into the sea, he expected the pebbles would be driven by the current into deep water, beyond the harbour; but of this he was not certain; and therefore it was necessary to provide for the worst, by having canals and sluices in

¹ See Nickall's plan and report.

in the heads, to cleanse every part of the works ; that the commissioners might not be subject to the heavy expences they had been at, in the years 1727 and 1732, when it cost them four thousand pounds for removing the mud out of the pent and the bason.

He observed, in heavy rains, that the water descending from the hills was very turbid, before it reached the river ; and if it was confined in that state in the pent, it would precipitate its impurities over the whole surface. To prevent this, he proposed to make a canal, to turn the river into the middle of the pent ; where, if it deposited what it brought down from the hills, he could, by opening of the gates, drive down all the sediment to the lower part of the pent, and, by the curve, it would be carried on by the force of the water, through the large canal, into the outer harbour.

When the bason wanted cleansing, the pent water was to be let through a sluice, of a particular construction, at the three-gun battery, to spread the water over the surface, to drive the mud through the sluices in the cross wall.

The same sluices, and the new canal, were to cleanse the new bason. To remove the bar, when formed at the entrance into the harbour, he proposed to have canals, in each head, four feet deep and eight wide, which would deliver sixteen thousand tuns of water in a minute, upon the middle of the bar. He said, if the quantity of the water be considered, and the weight of it multiplied into the velocity, it would be sufficient to remove any bar that could be formed.

His harbour, when finished, would be capable of containing three hundred sail of ships ; and the largest frigate in the royal navy might ride or float in the bason, or the deepest part of the pent ; and a sixty-gun ship might go into dock, at spring tides, near the three-gun battery.

His plan, and the contrivances for cleansing each part of the harbour, and for removing the bar, will speak for themselves ; and his estimate for completing the whole amounted to £60,000.

Though the revenue of the harbour was insufficient to carry this plan into immediate execution, all the works done under the direction of Mr. Nickalls, were according to the design he had offered to the commissioners.

While he was employed, he cased the cross wall, on both sides, with stone, and made two new sluices in it; and some hundred feet of the wharfs were built with stone, and the foundation laid eight feet below the surface, with a view of sinking the bottom to a level with the greater line at spring tides. He had cleansed the basin of a prodigious quantity of mud; and by enlarging the passage into the pent, and lowering the apron at the gates, he made room for large vessels to enter, and there was a prospect of its being once more useful.

Mr. Nickalls was employed in the harbour several years, and he was capable of making improvements; but he had not learned, from experience, to estimate the price of labour in public works.

He probably estimated as a private individual superintending his workmen; and it was thought very strange, by his employers, that he never was accurate, either in the expence, or the time when any work would be finished; and he was dismissed from his employment, and his plan has been laid aside as an impracticable project.

It is evident, from the reports of the different engineers, that they have all followed each other, with some little variation, in proposing a plan to prevent the pebbles from collecting in the mouth of the harbour, without ever considering how they are driven there.

It appears from Mr. Diggs' papers, that, in his time, the mariners had found, from forty years experience and observation, that, as the groins filled with pebbles to the westward, they were driven round the ends by strong westwardly winds, and they uniformly formed a bar in the harbour; neither did the extending the works into the sea prevent it.

Mr. Nickalls observed, that when Cheeseman's head was first built with stone, the bars were less frequent; and he might have

added, that it was only until it filled to the westward, and then they were driven, round the end, into the entrance of the pier, as usual.

He further remarked, that an important effect had been produced, by building Cheeseman's head one hundred and thirty-three feet into the sea; for it had checked the force of the current at the south pier head; and it was found of great advantage to ships sailing with certain winds into the harbour.

Though this effect was observed, it did not lead to any further discovery of the setting of the current round projections built cross it in the sea; and it has been owing to this unaccountable inattention, that so many schemes have been proposed, and so much money expended, in useless and idle projects.

After the dismission of Mr. Nickalls, from his employment in the harbour, Sir Henry Oxenden, baronet, and a commissioner, undertook to direct the works; and, if we may judge from his attention to the business, he acted from the best of motives. The north head being considered in a dangerous state, he, in the year 1791, ordered sixty-five feet, at the extreme part of it, next the sea, to be taken down; and he rebuilt it in a substantial and masterly manner.

There is reason to believe that he found, upon trial, some of his experiments did not answer his expectation; and that it required experience and practice to counteract the difficulties there were to contend with; and, as the harbour was considerably in debt, he left the arduous undertaking, of procuring an open harbour, to his successors.

As the old part of the north head was considered in a dangerous state, Messrs. Rennie and Walker made a survey, and a report in the year 1803; that it was their opinion, the south head should be carried out two hundred feet beyond the north head; but their plan was not adopted.

In the storm which happened in January, 1808, a considerable length of the old work, on the inside of the north pier head, was

beaten down by the waves ; and the harbour was in a perilous situation. Mr. Moon, the harbour-master, undertook to repair one hundred and ninety-five feet of this work, and he completed it with credit to himself, and to the satisfaction of his employers.

Mr. Moon, having obtained a favorable opinion of the Warden and his assistants, he next presented to them a report, the twenty-first of April, 1811, containing an account of the repairs which were necessary, and of the improvements which might be made, on the south-west side of the pier. He acquainted them, that, during the nineteen years he had been harbour-master, he had accustomed himself to attend to the different plans which had been offered for the improvement of the harbour ; and he thought it his duty to offer them his opinion on the most certain and expeditious method for removing the obstructions which had baffled the skill of all those who attempted the arduous task before him.

He knew it had been a favorite plan with the engineers, who had been consulted how to prevent the beach from collecting in the mouth of the harbour, to propose extending the heads further into the sea, and to alter their form ; but these he considered totally inadequate to the purpose.

The endeavouring to convey the beach into deep water, that it might pass into the bay, without entering the harbour, was, at the best, but a vain attempt ; he thought, it was time to try, if the back water could be made more useful to them, by conducting it to a point, where it might act with all its force on the bar, and remove it more expeditiously.

As the south head was in a very dangerous state, he advised the re-building it in the same manner as the north head ; but with a canal in it, to deliver the water from the basin, nearer the bar.

A dry dock was also very much wanted ; he therefore advised the making of one in the space between the boom-house and the houses in King's Head street.

He proposed the work to be carried on as expeditiously as their income would afford; but not to run the harbour in debt.

The Warden and his assistants appointed him the engineer for the harbour, and they adopted his plan, and they directed him to prepare materials for the work.

In the year 1812, the digging of the foundation was begun; but when the workmen had got below the level of low water mark, it was found impracticable to proceed, the water having flowed in so fast upon them.

Mr. Walker was applied to, to assist Mr. Moon through this difficulty; and he offered another report, the thirteenth of August, 1812.

He proposed adopting the old notion of conveying the beach into deep water, by carrying out the south head to low water mark with stone, with a canal in it, as proposed by Mr. Moon.

He intended, that the termination of the south head should be circular; as that form was the best adapted to resist the force of the waves; and it would do the least injury to vessels striking against it, sailing into the harbour in tempestuous weather.

Many arguments were offered in defence of his plan; and he said, that Joseph Huddert, Esq. one of the best nautical engineers in the country, approved of it.

The canal, he proposed, to be of cast iron, as it could be laid more expeditiously, and would be cheaper.

The estimate, delivered in by Mr. Walker, was as follows:

	£.	s.	d.
The stone head	35,446	17	8
The cast iron canal.....	11,001	5	11
Dock.....	20,516	0	7
Total....	£66,964	4	2

Mr. Huddert, upon examining this plan, was doubtful of its answering; and the sum being too great to hazard upon an uncertainty,

Mr. Moon's plan was preferred before it; and they hoped to be able to accomplish the work, as the tonnage duty was restored, which had been taken from them.

After they had persisted in their folly, in endeavouring to make an useful harbour at Rye, without a probability of success, the legislature put an end to their weak and ineffectual efforts, by discontinuing the tonnage duty, which had been taken from Dover.

It may appear strange to some persons, that, when this act was passed, there was not any application made for the duties to return to Dover harbour. It was not until the forty-seventh year of George the Third, 1807, that they were empowered to receive again the tonnage duty on all shipping, from twenty tons to three hundred, passing from, to, or by Dover, excepting vessels wholly laden with coals. These were to pay one penny halfpenny the chaldron, and the same for every ton of grindstone, Portland, and Purbeck stone.

Light is now beginning to dispel the mist of those errors, which blinded the eyes of our ancestors, respecting the pebbles moving in deep water; we may, therefore, reasonably hope, that some person of wealth and influence will, in time, see the necessity of recommending an attempt to diminish, or render less frequent, an evil, which the experience of upwards of two centuries will shew us it is impossible to prevent.

It is in vain to persist in counteracting the uniform laws of nature; but it will be acting discreetly, when the sum is but trifling, when compared with what has been expended to but little purpose, to endeavour to remove the impediments which retard the progress of the pebbles to the eastward, that they may pass on more quickly into their regular course.

From some circumstances, which have recently occurred, the late Mr. Pitt, Warden of the Cinque Ports, at a harbour sessions, in 1802, proposed making some alteration in the system for the renewing of the leases belonging to the harbour. It had been the usual method with the board, to charge two shillings and six-pence in the pound, according to the value of the premises, as rated in the assessment for the relief of the poor; and as this had been a rule nearly two centuries, the leaseholders considered it permanent, and they were very much alarmed at any proposed alteration; and, without waiting to know the determination of the commissioners, they presented a memorial to them, on Tuesday, the 30th of August, 1803, to point out the impolicy of any material alteration.

They represented to the board, that such a step would involve thousands of the inhabitants in difficulties, and affect property to an immense amount.

They further said, that the indorsement, upon the back of their leases, had always been considered as an implied contract for the renewal of their leases, at the time assigned them; and this produced such a confidence, that their estates have been regularly sold, assigned, mortgaged, and devised by will, as a freehold; and that the existing term had never been an object of consideration.

They added, that it was this confidence which converted a barren and unproductive spot, whose annual value, at the time of granting the charter, was reckoned at no more than twenty-one pounds four shillings, to a clear rent of between six and seven hundred pounds a year, in a progressive state of advancement.

If a system so injurious to the leaseholders should be adopted, they doubted not but it would destroy that confidence from which the increased rents had arisen, and a depreciation of their estates, and the ruin of the town, would be the consequence.

They begged leave further to remark, that their case was of a peculiar nature, and required to be considered upon its own grounds

alone. As delay would be hurtful to individuals, they hoped that a speedy and a favourable conclusion of the business would be determined by the board.

Though all business relative to the harbour estates was stopped, neither the leaseholders, nor any one, could sell, or raise money on their premises; and the persons who had purchased Paradise pent, at the sum of £3522, and at a yearly rent of upwards of forty-seven pounds, and had not erected their houses, ceased building, and many leases were expired; yet the leaseholders were kept in suspense between eight and nine years, before they received the final determination of the board.

At a session of the honorable Warden and assistants of Dover harbour, holden the thirty-first of October, 1812,

It was ordered, that leases of all such parts of the harbour estates, in the town, to which there is no claim arising out of possession, shall be granted at their full value.

That the leases of all the other estates, in the town (with the exception of the houses in Paradise pent), shall be called in and cancelled, and new leases granted, for sixty one years, from Lady-day next, at three shillings and six-pence in the pound, upon their fair annual value; the interest of those persons whose leases are unexpired, being duly considered. The new leases to contain a clause of renewal, at the end of twenty one years, upon such terms as the board shall then think just and equitable.

That the above resolutions be made known to the leaseholders by the register, and that such of them as shall be desirous of taking out their leases upon those terms, do signify the same to the register, on or before the sixth day of April next, or they will be precluded from the benefit of these terms.

That leases be granted of the houses in Paradise pent, for the term of ninety-nine years, commencing from the time the lessees respectively paid for the grant of their original leases, at the same ground rents which are now paid.

South-west of the harbour, and on the south side of the Plain, near the end of Beach-street, there was formerly a small chapel, which was built by a northern nobleman, to perpetuate the memory of his preservation, when shipwrecked, and cast on the shore on the place where he erected the building.

This edifice was dedicated to Saint Mary, and called the chapel of Our Lady of Pity. The vestments used here by the priest, were richly embroidered with gold lace. The commissioners, at the suppression of the religious houses, seized the sacred vessels, which were valued at one hundred marks.

This chapel, in a course of time, was taken possession of, for an habitation, by a poor fisherman. Over the door there was a stone, with the arms of England, impaling France. There was also another stone, near the stairs, with a rose, and a crown; the date 1530.

This chapel was probably washed down, with several other buildings, in the year 1576, by a very tempestuous sea.

CHAP. X.

The origin of ancient jurisdiction in England. How formed. Laws established by Alfred. Great encroachments made by William the First. The Cinque Ports regain their privileges. Ancient method of electing magistrates at Dover. Punishment for refusing to serve the office of Mayor. Custom observed in receiving the King's bailiff. His duty. An attempt to change the custom of electing the magistrates, which, in time, failed. A second attempt, which succeeded, until the Interregnum. The freemen recover their rights. Finally lost, after the restoration. Proceedings of the magistrates. They obtain a new charter, disown it, and act by their own plan.

It has frequently been said, that the first rude outline of a code of laws, for the government of England, was formed in the forests, in Germany, by warriors; who associating, and mutually agreeing, under certain regulations, were to assist each other, either for defence or conquest.

'As war, and the chace, were the constant stimulants, which roused the energy of barbarians, and were the principal sources from which they drew their subsistence; their consequence, in society, depended much more upon their personal valour, than their birth; though they sometimes derived distinction from it; but political rank and power were only to be acquired by achieving great actions.

¹ Gibbon's Rom. Hist. 8vo, p. 302.

As they could not claim the first ranks among men, by being descended from those in high stations, they trained up the youths, born of free parents, to learn to defend themselves against an invading enemy; and when they arrived at a state of manhood, they were invested with a spear and a shield, and admitted members of their military assemblies. Those who were distinguished by their experience and their wisdom, administered justice, or rather endeavoured to reconcile differences; for the spirit of a freeman, with arms in his hands, would not readily submit to any indignity.

The leader, or the war king, of a piratical or plundering party, was looked up to, much more for his example, than his birth; and his consequence was diminished, when the expedition ceased, in which they had been engaged. While they contented themselves with making excursions, and returning with what booty they could collect, they paid but little attention to landed property, in their frozen climates; and they made frequent distributions of that which they cultivated; but when the swarms from the northern hives were about to quit their gloomy forests, and to seek a permanent settlement, in a more southern and fertile situation, it was necessary to enter into a new compact with their leaders; namely, that the country which they subdued, by the sword, should be divided between them, by lot.

'After Genseric, the king of the Vandals, had permitted his licentious troops to satiate their rage and their avarice, he instituted a more regular system of rapine and oppression. "The lands of the peninsular province, which formed the immediate district of Carthage, were accurately measured, and divided among the barbarians; and the conqueror preserved, for his own peculiar domain, the fertile territory of Byzacium, and the adjacent parts of Numidia and Getulia,"

* Gibbon's Rom. Hist. 8vo. vol. 6, p. 30.—Procopius de Bel. Vandal. c. 5, p. 189, 190.

It is highly probable, that the Saxon chiefs adopted a similar plan, and they divided the lands, which they acquired by conquest, by lot, among their associates, upon the conditions of rendering military service, to defend and secure what they had obtained by their valour. It was the opinion of Lord Coke, that all lands, in England, were anciently included in the royal domains,¹ and the great barons were enfeoffed with lordships and manors, upon conditions that they performed certain military services. The barons were also obliged to grant, to their favorites, a sufficient quantity of their lands, to have them always in readiness, to follow them in the field, when the King called for their service.

It is certain, that the lands held by the Anglo-Saxons, were subject to the fryd, which was rigorously exacted ; and those who were remiss in discharging their part of the social compact, were severely punished. This was laying the foundation of the feudal system; and it partook of the most essential parts of it. Several of the cities, towns, and burghs, were under the jurisdiction of earls, or barons, and they shared the rental with their royal master ; and as the inhabitants acquired personal property, they entered into confederations, and gildscripts, to promote their own interests. There was not only a special union in each of the towns of the Cinque Ports, but a general one to protect the coast against piratical parties, and to assist each other, in case of an attack from a common enemy. There was a gild at Dover, and the gihala of the burgesses is mentioned in the Doomsday Book.

Under the Saxon government, every man was obliged to have borth, or surety, to answer for his good conduct ; and he who could not produce borth was considered as a very suspicious person. It has been said, that the system of borth originated with Alfred ; but it was

¹ Lord Coke, Seldon, Bacon, Owen, and others, for Saxon fiefs. Against them, Crag, Lord Hale, Sumner, Spelman, Brady, and others. For the middle path, Blackstone, Dalrymple, and Sullivan.

probably of a higher antiquity. It might be expected, that a man of his great and penetrating genius, would collect, revise, and improve those laws, which had long been neglected, and trampled upon, by contending parties, striving for superiority, and endeavouring to dictate terms for each other. After a long night of ignorance, Alfred was the first of the Saxon Kings, who formed a regular and general system of jurisprudence, for the better government of his kingdom; and he endeavoured to accommodate it, to soften the rude tempers, and fierce passions of a warlike people. He collected from traditional evidence, and from the decisions of his predecessors, who differed in their proceedings in their peculiar districts, as some of them were guided by the Mercian, some by the Saxon, and others by the Danish law; and after he had digested this rude mass, and reduced it to a regular system, he caused this new code to be entered in a book, which he called the Liber Judicialis; and he ordered it to be deposited in his palace, at Winchester, where he kept his court. To ensure success to his undertaking, he placed the execution of his laws in the hands of his great men.

As the Danish invasion had materially altered the ancient police of the kingdom, and different districts frequently annoyed each other in their predatory excursions, Alfred found it expedient to make some change in the ancient provincial divisions of the kingdom; and to each county, hundred, and tything, he gave a jurisdiction; and he introduced a gradual subordination, from the Thane to the lowest freeman.

The least division was a tything, from the Saxon Teothange, which includes the number of ten men, with their families, united in a society, and bound to the King for the peaceable behaviour of each other. Of these societies there was one principal person, who, from his office, was called tything man. It also signified a court. By the law, "every man was to have borh, and the borh was to produce him to every legal charge, and if he had committed any offence, and escaped, the borh was to bear what he ought to have borne. If it was

theft, and his borb could bring him forward within ten months, then what the borb paid was to be returned."

These petty jurisdictions had each authority to hold a court, to settle disputes among neighbours, which, if suffered to continue, might break the peace of the tything.

The hundred probably consisted of ten tythings; and the head man in each free family was a member of the hundred court; and if he was summoned, he was obliged to attend, under a penalty. In this court, a King's thane, or a baron, presided; and it was necessary, that he should have five hides of land, and a seat of justice. The courts, where the suits were heard and determined, were within the inclosure, which was the general receptacle for the cattle of the villagers, and in which stood the baronial mansion.

The hundreds still retain their names, but their jurisdictions have devolved to the county courts, excepting where they have continued in the crown, or been granted as a privilege to a particular district, and so remain as a franchise. This has been the case, ever since the reign of Edward the Third,¹ when the hundred courts, which had been farmed out by the sheriffs, were annexed to the county courts. When we read of any hundred court, the sheriff has now no authority there, unless they refuse to discharge their duty.

It was from the plan which Alfred adopted, for the rural courts, that a system was formed for the administration of justice in cities and in towns. When the King gave them a charter of emancipation, with privileges, it was absolutely necessary that he should add the power of holding a court, to try and punish offenders against their privileges, for the benefits were intended to be reciprocal between the parties; and if a sovereign raised the principal inhabitants of a town to the rights of freemen, they were either to pay him a certain yearly sum, or to perform stipulated services; and it required a controlling power in their

¹ *Lambard and others.*

² 14th Edw. 3, stat. 1, c. 9.

own body, to compel their citizens to discharge their proportionable part of the contract.

* When the inhabitants of a town acquired personal freedom, they received with it municipal jurisdiction, and power of administering justice, within their own franchise; of levying taxes; of embodying and training their militia, for defending their own walls; and, if called upon, they were to oppose the King's enemies in the field.

* The incorporating a town, with exclusive privileges, in England, was prior to the Norman Conquest; for as early as Edward the Confessor, Dover had the liberty of holding a court, for the administration of justice, and an exemption from answering to any plea beyond their own jurisdiction.

The town of Dover was the first of the Cinque Ports incorporated with privileges for stipulated services, and they had power to elect their chief magistrate from their own community; but his authority always ceased with his office, at the end of the year.

The charters granted to the Barons of the Cinque Ports, by the Kings of the Norman line, were not charters of enfranchisement from a state of slavery,³ but a confirmation of privileges, which they had enjoyed before the conquest.

About the year 1066, William the First had it hinted to the incorporated towns, that presents would be acceptable to him: and, to encourage them to be liberal, he artfully held out the flattering prospect of confirming their privileges, as far as they concerned the administration of justice, and the keeping of the peace in their own franchise.

The King might at that time intend it, and he granted charters of confirmation of liberties to several of the incorporated towns; but after he had made considerable encroachments on the property of his

¹ Essay on the British Const. p. 14, 16.

* Smith's Wealth of Nations, vol. 2, p. 104.—Madox's Firma Burgha, p. 18.—Hist. Exch. p. 223.

² Brady's Hist. of Boroughs, p. 1, 2.

English subjects,¹ to gratify the rapacity of his Norman followers, he was apprehensive, that if he should leave the government of towns in select bodies of people, it would be in effect uniting them against himself, in case of any insurrection. In order to prevent fires in old towns, built with wood, and, at the same time, to check the inhabitants from forming conspiracies in their nocturnal meetings, he had it proclaimed, that all persons should extinguish their fires, and retire to rest, at the ringing of the curfew bell.² To prevent the people from disobeying this law, he sent such of his Norman followers he could best confide in, to take the government of all the fortified cities and towns into their own hands. From that time, the official titles of Thane and Eldorman ceased. He next commanded, that the laws of Edward the Confessor should be practiced in the courts in the Norman tongue, with such additions, as time and experience might direct him to make. This was putting his finger upon the main artery of the legal and political constitution, and stopping the current of all power and justice, which did not immediately flow from himself, through his favorites; for he appointed the principal officers in every privileged jurisdiction, and whom he removed at his pleasure.

This was adopting an effectual plan, to deprive the incorporated cities and towns of their privileges, and to keep his English subjects in perfect awe of him. The liberties which Edward the Confessor had granted to the Barons of the Cinque Ports, were all swept off by this new system of government; and they were obliged to submit to such laws, as were dictated to them by their arbitrary conquerors. By changing the Saxon feuds, he affected the tenure of most of the landed property in the kingdom.

The inhabitants of all the emancipated cities and towns, which had been enfranchised under the Saxon Kings, felt the effects of this

¹ *Lambard's Petambulation*, p. 91.

² *Reeves' Hist. of the Law*, vol. 1, p. 39.—*Essay on Brit. Const.* p. 14, 16.

change in their government most severely ; and the only consolation they had was, in hoping, that some favorable event would arise, for them to recover those privileges, which had been wrested from them by the strong hand of power.

The inhabitants of the Cinque Ports were among the foremost of those, who were watching for a favorable moment to regain their political importance ; and under the bartering King Richard, and the distressed King John, they recovered all they had lost. Both these misguided Kings confirmed, in general terms, their liberties and free customs ; which were afterwards particularly mentioned in their charters, by their successors : and the Barons of the Cinque Ports were to enjoy them as fully as their ancestors had done under the Confessor, or William the Conqueror.

Among the various privileges granted them, they were to have the liberty of holding courts ; and they and their successors were, forever, to have their leets and law days, and the liberty to erect gallowses within each port, and member of the ports, and to give judgment upon all occasions, according to the privilege of infangtheff and utfangtheff, and to the custom anciently used in the ports, and their members ; without the lett, impediment, or questioning of the King, his heirs, justices, coroners, escheators, sheriffs, and others his bailiffs and officers whatsoever. And that the said mayors, jurats, and bailiffs, and officers, may have and hold, by a complaint before them, to be relieved in the court of any port or member, at any place, day, or time most convenient to be held, according to custom ; and all sorts of pleas and actions, real, personal, and mixed, happening by sea or by land, within any such port or member. They may also attach those persons, and commit them to prison, and be Oyer and Terminator of all and every the said pleas, and give judgment upon proofs and execution, according to the custom of the ports.

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At that time the inhabitants of the Cinque Ports, like those in the rural tithings, were divided into two, or more classes; and it was only such as could pay scot and lot were considered as free barons. It was from this part of the community, that the mayor, and other magistrates, were chosen at Dover, in the following manner.

Those who enjoyed the rights of free burgesses, were summoned early in the morning, by the blowing of a horn, in each of the different wards, on the eighth day of September, being the festival of Saint Mary the Virgin; and it appears, from the oldest records of their proceedings, that they assembled in Saint Peter's church. The old chief magistrate, whose year expired at noon, was obliged to be present, and to bring with him the town box, the seal of office, the charter, and their records; and while their privileges were generally known, the contents of the box were carefully examined, to see if every thing was safe.

They then proceeded to elect their new mayor, by vote, out of their own body, for the year ensuing. At that time, they were too jealous of their liberties, to trust power in the hands of their own citizens for a longer time than a year; and, at the expiration of that term, they took the power from those who had abused it. If the person they elected to the mayoralty was not present to take the oath, (which was to be true to the King, to maintain the liberties and the franchises of the town, and to do justice to the rich and poor,) they did not discharge the old mayor. If the new chief magistrate was present, and refused to take the oath, they claimed the privilege of pulling down his house as a punishment.

If the mayor was convicted of any capital offence, during his mayoralty, he was immediately to be discharged from his office; and if he died before the expiration of the year, the freemen were summoned, in the usual manner, to elect another in his place.

* MSS. Customal of Dover.

Similar methods were adopted for chusing a chief magistrate in the other corporate towns, within the liberties of the Cinque Ports. At Rye, they punished their chief magistrate, as they did at Dover, if he refused to be sworn after his election ; but at Romney, Winchelsea, and Hastings, they only turned the family out of their house, and sealed up the doors, and the windows, with their seal of office. If either the mayor elect, or any of his family, broke the seal, and entered the house, they were all committed to prison ; and there they were to remain, in safe custody, until he took the oath, and accepted the office, to which he was elected by the votes of his fellow citizens.

The punishment, which the barons of the Cinque Ports inflicted on the person they had elected for their chief magistrate, for refusing to take the office, proves the antiquity of their customals ; for a similar mode of punishment is mentioned to have been anciently inflicted on conspirators,¹ and persons convicted of giving false evidence. They were, with their wives and children, turned out of their habitations ; and their houses were not only pulled down,² but rased from the foundations.

As instances might happen, in such popular assemblies, of electing a chief magistrate, incapable of discharging the duties of his office, the old mayor, at Dover, might, in such a case, reject their choice, and oblige them to proceed to a new election.

The chief magistrates, at Dover, Winchelsea, and Rye, followed the plan of their Saxon ancestors, who, in every hundred, selected twelve thanes, or freemen, to assist the Judge, as mentioned in the laws of King Ethelred ;³ and there were twelve chosen, in each of the Cinque Ports, to assist the mayor, and were called jurats, upon their being sworn on entering into office.

¹ MSS. Customals of Romney, Winchelsea, and Hastings. ² The same Customals.

³ Blackstone's Com. b. 3, c. 25. ⁴ Leges Ethel. c. 4.

After the mayor had made choice of his associates, to assist him in his judicial capacity, they jointly, with the whole body of the free barons assembled, proceeded to the election of their common clerk, and their inferior officers. The business of the day being completed, the charter, the seal, and the records, were all re-placed in the box, and carried home to the new mayor's house.

Each of the Cinque Ports, and their towns, had an officer sent them, commissioned by the King, and called his bailiff. It was a part of his duty to take care, that the privileges, granted to the barons of the Cinque Ports, were not applied to the prejudice of the King, his crown, or dignity.¹ He was to receive all prisoners into his custody; and to take proper security of persons, according to the nature of the plea, and, jointly with the mayor, to hear all causes and appeals, and to receive all fines and amercements, forfeited to the King, as well as the exports and imports of the place where he resided. He was also to assist in preserving the peace; but his power did not extend to the amercing of a freeman, without the consent of the mayor.²

When a new bailiff was sent to any of the Cinque Ports,³ they demanded of him his commission, sealed with white wax, under the great seal, and a letter for their attendance, sealed with green wax; and if he could not produce them, they would not receive him, nor suffer him to act. The difference in the colours of the wax, were points they always insisted on; nor would they receive him, if he could not produce the proper documents.³

His letter, which was probably sent from the Exchequer, was to this effect:—

" We have commissioned our beloved C. D. to be Bailiff of the town and port of Dover, during our pleasure, that he may answer to our Exchequer,

¹ Spelman's Glos.—Brady's Hist. vol. 2, p. 162.

² MSS. Customal of the Cinque Ports.

³ Mirror of Justice, p. 42.

for the exports and imports to be by him received ; and we command you to attend the said bailiff, in all things pertaining to his office ; and he is to receive twelve pence a day. All this you will answer."

On the receipt of this letter, the barons of the town were assembled, by the blowing of the horn for a common hall, to meet the bailiff ; and if he produced the necessary credentials, they received him. He was first sworn to be faithful to the King, and to preserve the rights and the privileges of the town ; and he was then permitted to enter on his office.

He next elected his own deputy, and he was answerable for his conduct ; and if he embezzled the King's dues, his principal was to make good all deficiencies.

The bailiff was to have lands, within the franchise, sufficient to answer, both to the King, and the barons of the Cinque Ports, in case he neglected to make his returns into the exchequer, or illegally oppressed the people. If he did not make satisfaction to those he injured, he was to forfeit ten pounds. If he had not property to this amount, within the franchise, they might attach his person, and take him before their Warden, at the expence of the King. If the bailiff was convicted of a felonious act, the care of the prison devolved to the mayor ; and a person was appointed, by the guardian of the Ports, to preserve the King's dues, until another bailiff could be appointed.

For several centuries, the Barons of the Cinque Ports enjoyed the right of electing their chief magistrate, their common clerk, and their inferior officers, out of their own body, and of receiving the King's bailiff ; but, in the reign of Henry the Eighth, there was a plan formed to narrow their privileges.

It is a fact, which cannot be denied, that popular elections are too often attended with riot and confusion ; for where interest and ambition are the ruling principles, with contending parties, they are seldom very nice in the measures they adopt, to deceive, and gain over the majority of the people.

In an act of the court of brotherhood, which was passed at Romney, on the third day of August, 1526, by the mayors, jurats, and other persons there assembled, it is said, "that in all the towns within their jurisdiction, there had been great dissensions in electing the chief magistrate, and that there had been many unlawful assemblies, both before and after the day of election, which generally ended in disturbing the public peace, in impeding the administration of justice, and vilifying each other's character; and it was necessary to adopt a speedy remedy, to prevent such tumultuous proceedings in future."

Instead of strengthening the arm of the magistrate, in each of the ports and their towns, and exerting the civil power with vigour, to suppress the feigned or real indiscretions of the people, they formed the resolution of confining the right of choosing the mayor, and their officers, to a select number of persons, named by themselves. That they might not fail in carrying their design into execution, by any of their members withdrawing from them on the day of trial, they resolved, that every one of them should engage, under a penalty, to be recovered in their own courts, to enforce their decree to the utmost of their power. They then resolved, that from henceforth, and for ever, thirty-seven persons, named by themselves, in each of their ports, and twenty-four in each of their corporate towns, should assume the sole right of electing their mayor and jurats, receiving the King's bailiff, and appointing their bailiffs to Yarmouth. It was further resolved, that when the free barons, in each of the ports, should assemble to elect their chief magistrate, at the accustomed times and places, that either the old mayor, or the bailiff, or one of the officers, should cause proclamation to be made to this effect; "We command, and straitly charge every person, in the King's name, to keep the peace, to lay aside his weapons, and not to disturb the electors by giving a voice, under the penalty of fifty pence, and imprisonment during the pleasure" of this self-elected body of associates, against the common rights of the freemen. By this de-

cree it also appears, that the Barons of the Cinque Ports adopted the custom of the Saxons, in appearing armed in their public assemblies.

When they met at Dover, on the eighth day of September, the proclamation was made; and the mayor and the bailiff, with the consent of the jurats, nominated thirty-seven persons, who were called the wisest and most discreet of the barons of the town, and who were householders, and indwellers; and from whom they were to elect their magistrate for the year ensuing. The names of the thirty-seven persons being registered, and called over, by the recorder, he then gave them a charge, and directed them, according to the oath they had taken at their admission (which was to preserve the rights and privileges of the town), to retire by themselves, and there secretly to elect one of the jurats, without any favor, love, or dread, who had been upon the bench at least one year preceding the day of his election. If the electors were not unanimous, then a majority of the thirty-seven persons were to determine the choice.

This bold attempt upon the privileges of the Barons of Dover, met with considerable opposition, from time to time; and the self-elected magistrates, finding, from experience, that it would be impossible to maintain their assumed authority, seemed inclined to lay it down with a little decency.

In the fourth year of the reign of Edward the Sixth, they proposed a meeting with the Barons of Dover, in the month of August; and the contending parties agreed, that if the thirty-seven men, who had been appointed by the act of brotherhood, had not full power, and lawful authority, to elect the magistrates and officers, as there mentioned; they should then be chosen according to the immemorial practice recorded in the customal of their port.

As an act of brotherhood could not possibly deprive the freemen of their right, it was deemed an arbitrary and a wanton stretch of a

* MSS. in the British Museum.

pretended power; and the ancient method of electing their mayor was again re-adopted at Dover.'

Though the thirty-seven electors reluctantly resigned the authority they had so illegally assumed, they did not give up all hope of establishing it on a more permanent basis; and, in the short space of thirty years, they nearly completed such a systematic plan, as was not to be shaken by the divided efforts of a body of uninformed mariners.

As they found, by experience, that their system could not be established by an act of brotherhood, they applied, in the reign of Elizabeth, to her Majesty's privy council, for instruction, how to prevent the growing disturbances, which, it was said, were yearly increasing with the annual return of the election of a mayor. The advice which they received from their lordships, was so favorable to their wishes, that they determined to risk the event of another trial at Dover, and to elect themselves magistrates for life.

A meeting was proposed, on the seventh day of September, in the seventeenth year of the reign of Elizabeth, and notice was given, by the blowing of a horn, in the usual parts of the town, for all persons, who had any concern in the election, to attend the magistrates in the common hall,¹ to form a decree, which might effectually prevent all tumultuous meetings, at the chusing of the magistrates; and be perpetually binding on all parties.

The old mayor, whose year was to expire the next day, and who might be apprehensive that he should not be re-elected, opened the business, by declaring, that their sole reason for wishing to depart from their ancient mode of chusing their chief magistrate, jurats, and officers, was to preserve peace and good order in the town. He added, that they had been frequently obliged to apply to her Majesty's privy council, whose advice they were then acting under; and it

¹ MSS. on Act of Brotherhood.

² MSS. Liber H. p. 49.

was their lordships opinion, that the contending parties should meet, and, by virtue of charters and privileges, granted to them for making bye laws for the better government of the town, they should draw up a decree, to preserve a lasting harmony between them.

To sanction their proceeding, with the approbation of men high in office, and to check the ardour of the freemen, they read a letter, signed William Brook, Lord Cobham, chamberlain to the Queen's household, in which it was intimated, that such a plan would be agreeable to her Majesty's privy council, which had often been troubled with complaints from Dover on chusing magistrates.

Whether a letter coming from a person so high in office, had any influence on the minds of the popular party; or whether they were wearied out, by contending, year after year, to maintain their right of electing their chief magistrate, and the officers, from their own body; whether they wanted a leader to collect and deliver their sentiments; or were driven from the contest by fear, is very uncertain, as it does not appear in the record of this transaction.

It is very probable, that the Queen interfered with her authority in favor of the magistrates; for we learn, from a monumental inscription in the chancel of the parish church of Hougham, in memory of William Hannington, that he was twice mayor of Dover, by the favor and the command of the Queen; and this might be the reason of the freemen retiring from the contest. There is one thing certain, that there was a combination of ambition, power, and interest, opposed to the rights and privileges of the freemen; and a decree was passed, similar to that in the reign of Edward the Sixth, which has been already mentioned; but something further was necessary to prop up this new fabric. The record of this singular transaction has reached us, which says, "At a horn blowing, on the seventh day of September, A.D. 1578, in the twentieth year of the reign of Elizabeth, the Queen's Majesty that now is, the worshipful Mr. Robert Fynett, mayor, Thomas Wat-

son, Thomas Andrews, John Lucas, Alexander Myng, Thomas Allen, John Knapp, John Garrett, and Roger Joyce, jurats, and the whole commons of the town and port, assembled in the town hall, by the mutual assent of them, this act and decree was fully enacted, established and decreed; that is to say.

"An act of common council and assembly, and perpetual order hereafter, for the election of mayor of Dover, in the county of Kent, and of certain officers there, and other necessaries, for the good government of the said town, made on the seventh day of September, 1578, in the twentieth year of our Sovereign Lady Elizabeth's reign.

"For the avoidance of the late contentions and debates, that have risen in the town of Dover aforesaid, about the election of mayor, the whole contentions have tended, not only to the general disturbance of the quiet state of the town, but also to the trouble of her Majesty's most honourable privy council, being oftentimes molested with the complaint upon disorders, growing by discord about the election. Their lordships foreseeing and intending, that the like should not hereafter happen, willed and advised us, the mayor, jurats, and commons, of the said town of Dover, to set down and establish, by virtue of charters and privileges, granted to the said town of Dover, for making bye laws, and acts of common council, for the good and quiet government of the said town, some good order and decree, for a perpetual quietness hereafter, to be had in the said election of the mayor. We, therefore, the said mayor, jurats, and commons, of the said town, of a mutual assent and agreement in the accomplishment of the commandment, order, and direction of the said right honourable the lords, and others of her Majesty's privy council, and especially for the causes first above mentioned, tending to conserve (preserve) quiet and concord in the said town, by authority of charters and privileges heretofore to us, and our predecessors, granted, for the common tranquility of the said town, at this common assembly do enact and order, in manner following, viz. That yearly, for ever hereafter, the mayor for the said town of Dover,

for the time being, and the jurats, or the most part of them, not having any lawful and necessary impediment, or cause, to excuse their absence, on the usual day of election of the mayor of the same town, between the hours of eight and nine of the clock in the forenoon of the same day, shall assemble themselves together in the common hall of the said town, and before ten of the clock in the same forenoon, the said mayor and jurats, or the most part of them, shall, by the town-clerk of the said town for the time being, set down in writing, under their hands, or the hands of the most part of them, the names of four honest and discreet persons, of the jurats of the said town, together with the name of the then old mayor, to the end the commons may elect one of those five, to be mayor for the year following; and that done, they shall quietly depart, until the hour of assembly for the common election of the said mayor; and when the accustomed assembly is made, for the purpose aforesaid, at the usual place for the said election, the mayor and jurats of the said town, or the most part of them present, shall, in the presence of the commons of the said town, deliver to the town-clerk of the town aforesaid a bill, wherein the names of the said four jurats, and the old mayor, shall then be written, who forthwith shall publish the same to the commons aforesaid, willing them, in her Majesty's name, in a quiet manner, to proceed to the election of one of those five, so named in the said bill, to be mayor of the said town, for the year ensuing; of whom the said commons, by their just votes, shall elect one of them to be the mayor. And when the said commons have made their choice and election accordingly, the old mayor for the year passed, shall presently give a corporal oath, as heretofore has been accustomed, to the said new mayor, so elected for the good government of the town for the year following. And if the said old mayor be of new chosen for that new year, the most ancient jurat present shall administer the oath to the new chosen mayor; which order and manner of the said mayor, jurats, and commoners, we do enact, ordain, and decree to be kept and observed inviolably for ever; upon

pain that, whosoever attempteth, or goeth about to violate, or infringe the same, shall forfeit, for every time he shall offend, the sum of forty pounds, of lawful English money ; the one half of this forfeiture shall be to the use of the said town, and the other moiety to the use of him, or them, that will first sue for the same, by bill, comprehending the effect of this order, and the manner of the party's offence, contrary to the tenor hereof, to be exhibited and presented in the chancery court of the ports, usually holden in the church of Saint James, in Dover ; and the said parties, or party, so offending as is aforesaid, for every such offence to be punished by way of imprisonment, without bail or mainpernor, for three months next after the conviction for the said offence so committed, or done. And for the more firm and stable performance hereof, for ever hereafter, it is further ordained and enacted, that all and every person or persons, hereafter chosen to be mayor or mayors, jurat or jurats, of the said town, at the several times of their elections, shall be sworn in like manner, well and truly to observe this order accordingly ; whereof if any refuse, then he or they refusing the same, shall not be admitted to the office or degree of mayor, or jurat, of the said town, or any time hereafter. And it is further ordained and enacted, that from henceforth for ever, from time to time, as occasion shall require, that such members as do want of the common-council of the said town, shall be chosen, named, and appointed, by the mayor and jurats, or the most part of them; from time to time, for ever hereafter ; and at a common assembly, they shall elect and chuse, out of the jurats of the said town, the bailiff to Great Yarmouth, the burgesses to parliament, and the bearers of the canopy for the royal service, and all other officers of the said town, except the pounder, and the mayor's sergeant, which shall be at the mayor's election and choice for the time being, as heretofore have been and accustomed. And also, that the mayor and jurats, or the most part of them for the time being present, at every common assembly for ever hereafter, from time to time, shall make choice and election of such jurat or jurats, out of the common-

council of the said town, as shall be wanting for that time by death, or otherwise, any law, prescription, usage, or other thing or matter heretofore used or accustomed in the said town of Dover, to the contrary thereof, in any wise notwithstanding."

If there was a single person on the behalf of the commonalty present, at this supposed surrender of their rights and privileges, he never signed his name to it, to bind either himself, his heirs, or successors; nor was it signed by the mayor, or a jurat, nor even by the town-clerk.

The wording of this decree plainly points out the drawers of it, to have been those, whose powers were to expire with their offices the next day, and they were very probably doubtful of their being re-elected. Instead of the magistrates wishing to derive their authority from the good-will of their fellow citizens, they endeavoured, by an artful stretch of a tyrannical power, to fix themselves in their stations for life; and to bar every avenue against future competitors, for the emoluments which they hoped to reap, by bartering the liberties of the freemen for places and pensions.

To prevent the prying eye of the antiquary from ever disclosing the secret, the members of this new-formed corporation judiciously put aside their oldest records, called the Black Book of Dover, in which were entered the proceedings of their common halls, in the reign of Henry the Sixth; and they seemed desirous of closing in the sepulchre of time, the ancient method of electing a chief magistrate, prior to the twentieth year of the reign of Elizabeth.

Mr. Hasted, in his history of Kent, mentions a new charter, which, he says, was granted by the Queen to Dover, at the time of adopting the pretended act of cession of the rights of the freemen; and, in this charter, he adds, that the mode of electing the mayor, and the officers, and of appointing a common council, and of admitting freemen, were changed; and several new liberties and privileges were granted. It is not to be doubted, but that he received these, as he did several other erroneous tales, from one of the members on

the bench ; who was either grossly ignorant of the contents of the ancient records of the proceedings of his predecessors, or he wilfully misled him, to cover a dark transaction, with the appearance of a legal process ; that it might check any further inquiry into the transactions of those times.

This new system continued, without any effectual interruption, for a period of sixty years ; but, about the year 1644, there is some reason to conclude, that the freemen recovered their privilege of electing their chief magistrate, and officers, according to their ancient custom ; and they retained it, not only during the interregnum, but ten years after the restoration of Charles the Second.

The magistrates, who had been presbyterians during the protectorship of Oliver Cromwell, found, that a change in the ruling powers required a change in their principles, or at least in appearance ; and many of them professed a zealous attachment to the church. Time and experience had taught them, that if they wished for an absolute jurisdiction in their own town, they must receive, and obey, such orders, as might promote the views of their superiors.

As popular elections were obnoxious to the ruling powers, several of the leading men in the town of Dover determined once more to revive the plan mentioned in the act of cession of the rights of the freemen.

On the seventh day of September, 1670, John Matson, with four of the jurats, were nominated to be put in election for mayor for the ensuing year, and the popular party also mentioned their candidate for the chair. Upon casting up the votes after the poll, they had a considerable majority ; but the number of the voices was not to determine the contest, and the magistrates sent the state of the poll to the King. By the advice of his council, he declared the election to be void ; and he ordered them to proceed to a new choice, upon the plan adopted in the year 1578, and to put the popular candidate in the nomination. This encouraged the magistrates to hope, that they

should establish the old system ; as it was the only one that could fix them in their seats for life, and secure to them the emoluments to be derived from it.

Whilst the King was making great encroachments on the chartered rights of his subjects, several of the jurats signed letters, couched in the most humiliating language, and professing to do whatever he required of them ; even to the proceeding against some of their brethren on the bench, who could not so easily shift their ground as themselves ; Whilst the attorney general was prosecuting the quo warranto against the corporation, in the King's name, a petition, signed by one hundred and twenty-eight of the inhabitants, was sent to the Duke of Albermarle, to be presented to their Sovereign, and he received it very graciously.¹ They assured his Majesty, that they were deeply penetrated with a sense of their unhappy situation, in belonging to a corporate body, which had some of its members disaffected, and refused to put the laws in execution against conventicles ; by which they promoted and kept up sedition among the people ; while they, with all due humility, prostrated themselves, and laid the benefit they had in their charter, and franchises of his town and port of Dover, at his royal feet.

To convince the King how zealous and active they were in his interest, they assured him, that they had excommunicated Nicholas Cullen, their late pretended mayor, and William Stokes, their chief magistrate ; and that they had indicted some others, for similar offences.

The same party, who had persecuted the Rev. John Reading, the minister of the parish of Saint Mary the Virgin, in Dover, for his attachment to the church, during the republic, very soon after the restoration persecuted those who dissented from it.

Samuel Taverner, a man of considerable note for his piety and usefulness, was born at Rumford, in Essex, in the year 1621, and he

¹ From a MSS. formerly lodged in Dover Castle.

was captain of a troop of horse, in the year 1643, and afterwards appointed Governor of Deal Castle, by a commission under Oliver Cromwell. While he was in this situation, he formed a connexion with Mr. Prescott, of Guston, in Kent, and pastor of the baptist meeting, at Dover. He suffered for his non-conformity, and was frequently taken from the meeting when preaching, and had before the magistrates; but he inflexibly adhered to his principles. His persecutors came at last with a false warrant, and seized his shop goods, and as much of his furniture, as they deemed worth removing, and he was once committed to prison; but, by the interest of friends, he was soon discharged. What will not time produce?

The grand jury, at a special sessions of what they called Oyer and Terminer, held by the admiralty court, on the twenty-ninth day of April, 1682, agreed also to address the King. They assured him " how sensible they were of the unparalleled happiness they enjoyed under his mild government; and they congratulated him on discovering, what they called, the hellish plots and contrivances invented to oppose his authority; but more especially for his detecting the traitorous project for association in the proceedings of the Earl of Shaftesbury; and such proceedings, they said, carried in them the quintessence of all rebellion." They continued in this strain for some time, and then they offered his Majesty their most sincere thanks, for placing his royal brother, their late Warden, high commissioner for the kingdom of Scotland.

The magistrates joined with the grand jury in assuring the King of their abhorrence and detestation of all traitorous associations.

The court of brotherhood, assembled at Romney, in the year 1683, declared, in their address to the King, that they thought it their duty to offer him their loyal and thankful obedience, as the first fruits of their assembling, after a discontinuation of their meetings for many years. They further assured the King of their great attachment to his person, and of their gratitude for his mild government; and that they

detested all opposition to the laws, and separation from the church, as a sin against God ; and to complete all, they were ready to offer up their lives in defence of his person,

These addresses, and the surrender of their charter, saved the attorney general the trouble of prosecuting the quo warranto ; and as the addresses seemed as pliable as wax in the hands of the artist, and as capable of being moulded into whatever form they wanted, the King granted them a new charter.

This charter was drawn up on the plan formed in the year 1678 ; and, notwithstanding it gave the magistrates the privilege of continuing in their offices for life, it met with the same fate of most of the charters granted by Charles the Second ; for it was either disowned by the persons who obtained it, or by their successors.

There can be no doubt of this charter having been received by the corporation ; for it was ordered, by them, to be translated into English, at their expence ; and the mayor had it home for his perusal, before it was deposited in the guildhall, under the custody of his worship, the chamberlain, and the town-clerk.

The charters of Charles the Second were uniformly reprobated in the courts of law, after the arrival of William the Third.

The King had reserved to himself the privilege of dismissing, at his pleasure, all those whom he had placed in authority ; and this was considered, by the lawyers, as an illegal and unconstitutional stretch of his power, and, in their language, he was deceived in his grant ; and his charter, though not void, yet it was voidable, if controverted. As the magistrates held their offices at the will of their Sovereign, and the verdict of a court, if the validity of their charter should be questioned ; they probably thought it a political step to put it aside, upon the arrival of King William, and to plead their being a corporation

* *Liber vocatus*, Q, p. 374.

by prescription, with the power of making bye laws, for the better government of the town.

If the charter of Charles the Second had been called in by proclamation in the reign of James the Second, as mentioned by Mr. Hasted, there would have probably been some record of it; and if there is any, it has escaped my notice.

The plan which was introduced in the reign of Elizabeth, is still continued at Dover. The corporation consists of a mayor, and twelve jurats, with thirty-six members of the common council. The mayor is chosen by the resident freemen. The jurats are nominated from the common councilmen, by the jurats, and elected by the mayor, jurats, and common councilmen, by ballot.

CHAP. XI.

The inferior court for petty offences. Frankpledge. Admission of freemen. Breach of the peace. Trespass. Debt and covenant.

This court was probably formed upon the plan of the tithing of the Saxons. Edgar, like Jethro, the father in law to Moses, recommended meetings of his wise men; and he said, "Let no man seek the King, in matters of variance, unless he cannot find justice at home."¹

In this court the mayor, and his sectatores or jurats, had the same authority as a headborough, to hear and determine breaches of the peace, and other complaints, which frequently happened in populous towns; but crimes of a higher nature were reserved for their hundred court.

Charles the Second, in his charter to the Barons of the Cinque Ports, says, "We, of our special grace, certain knowledge, and mere motion, have given, granted, and confirmed, and by these presents, for us, our heirs and successors, do give, grant, and confirm, to the said barons, and honest men, inhabitants of the Cinque Ports, and to the members of the said towns and ports, and to their successors, to be, for ever, keepers of the peace, and justices to us, our heirs, and successors; and that every of them may, and shall be

¹ Spelman, p. 51.

keepers of the peace, and justices to our heirs and successors, within each of the ancient ports, towns, and their members, and the liberties, bounds, precincts, and limits of the same ; and we appoint them to keep, or cause to be kept, all ordinances and statutes, already set forth, or hereafter to be set forth, for the good of the peace of us, our heirs, and successors, and for the quiet rule and government of the people belonging to us ; and to correct and punish all offenders against the form of the said ordinances and statutes, or any of them. They are also to cause to appear, before the said mayors, bailiffs, and jurats respectively, all those who have threatened any mischief to the persons of the subjects of any of us, our heirs, or successors, and make them bring sufficient sureties for their peace and good behaviour towards us, our heirs, and successors, and towards the subjects of us ; and if they refuse to find such sureties, then to cause them to be kept safe in prison, until they shall find them."

'At Dover, they anciently held their court every week, on a Friday, by adjournment; and if any special business occurred, they sat every day, until it was finished.

Here the complainant had a right to expect his grievance would be redressed in three weeks; and in case of any unnecessary delay, he might apply to the hundred court for justice, and if he was not speedily redressed, then to the King.

'When they had no particular business, and the peace was well preserved in the town, the mayor might adjourn this court from fifteen days, to fifteen days, at his pleasure. He also claimed the privilege of holding this court on a Sunday, from the beginning of harvest, to the festival of Saint Michael, notwithstanding it was forbidden by a canon of the church.' This practice of hearing litigious complaints on the sabbath, was intended to prevent the husbandman from neg-

* MSS. Customal of Dover.

² Ditto.

³ Spelman, p. 35.

leeting his labour in the field, while he was complaining of injuries, and seeking redress for his wrongs.

The vacations in this court were, from the Friday preceding our Saviour's Nativity, to the octave of the Epiphany; and from the Passion of Christ, until the fifteenth day after Easter.

During these intervals, he did not hold any court, unless it was to liberate a prisoner. Our ancestors thought personal liberty of such great importance, that they would not withhold it for an hour, when they could open the prison door, and let the person free.

In this court they enrolled those who were permitted to partake of their privileges; and it was here they applied for a testimonial of their good conduct, if they wished to remove into another jurisdiction.

If the records of this court could be examined prior to the reign of Henry the Sixth, it would probably appear, that every resident within the franchise, who were of abilities to pay scot and lot, to watch and ward, were readily received into their confederation; as they were obliged, after their admission, to bear their proportionable expences for the year.

There is reason to believe, that a plan was formed for narrowing the path of the freedom to the town, as early as the reign of Queen Elizabeth; for it was then decreed, and recorded, upon what terms it might be obtained.

Freedom by freehold.

"None to be free, within the town and port of Dover, by any means, other than hereafter ensueth.

"Item, That every person or persons, which shall have, and hold, in fee simple, lands and tenements, within the liberties of the town, of the value of forty shillings, shall have and enjoy the freedom, so long as he dwelleth here, and keeps the said lands and tenements."

It is mentioned in an ancient manuscript, which was in being within our own memories, "That this method of admitting freemen

was prior to any record of it ; and therefore, it was decreed, and enrolled, to be kept in perpetual remembrance."

This decree was fettered with restrictions, in the twenty-second year of the reign of Elizabeth, as it was then ordered, " That no person, either by inheritance, or purchase of lands or tenements, shall be free ; unless they can expend, by the year, the clear yearly value of forty shillings, above all charges and reprisals whatever."

It was further decreed, that a man should not be admitted to his freedom, by the freehold of his wife, unless it was of the clear yearly value of three pounds six shillings and eight-pence ; and if the estate was sold, the freedom was to cease.

This decree continued, without any alteration, until the year 1631, when it was made void ; and it was declared, that no person should be admitted to his freedom, unless his lands or tenements were, bona fide, worth five pounds by the year.

That the difficulty of obtaining the freedom might be further increased, several schemes were devised, from time to time, for ascertaining the value of the freehold. They sometimes required an oath, or an affirmation, of the value of the rent ; they inspected the writings, and surveyed the premises, to determine whether they were worth five pounds a year, in their judgments.

The decree of 1631 has since been repealed ; and the rent must now be seven pounds ten shillings by the year, clear of deductions, to obtain the freedom by burgage tenure.

Freedom by purchase.

In the twenty-second year of the reign of Elizabeth it was decreed, not to sell the freedom of the town to any person, under the sum of five pounds sterling, and to admit them only in open court. This was done, that they might judge " whether the candidate was worthy to hold conversation with the mayor."

This decree continued in force until the year 1750, when the sum for purchasing the freedom was raised to twenty pounds.

Freedom by servitude.

It was decreed, in the forty-third year of the reign of Elizabeth, “That apprentices, who served seven years to mariners, if freemen of the town when they were bound, should have their freedom, provided their indentures were registered in the court within a limited time after their binding.”

This decree, which was to continue in force for ever, was in part repealed, by an act of common council, in the year 1747; and an apprentice to a seafaring man, was not to be entitled to the freedom of the town.

Decree relating to residence.

It was ordered, at a common assembly, in the year 1705, that no person should be admitted to his freedom, by any right whatsoever, unless, at the time of his demanding it, he was resident in the town, to pay scot and lot, to watch and ward; or the mayor, jurats, and common council, granted it, upon such terms as they might think proper.

In the year 1735, it was ordered, that every person demanding freedom, should reside constantly in the town for the space of one whole year, before he should be admitted. This decree continued in force nearly thirty years; when two gentlemen claimed their freedom by birth, who did not reside within the liberties of the town; and being refused, they determined to try the legality of a modern act of common council; and when they brought their mandamus, the corporation thought proper to admit them. A freeman's son, and a man who marries a freeman's daughter, may now be admitted without residence.

Another bye law, for not admitting any one to his freedom between the feast of Penticost, and the day of the election of the mayor, has shared the same fate.

When an arbitrary decree of a corporate body, formed to answer interested purposes, may be so easily set aside, after it has continued in force two centuries; it surely shews, that there is a great apathy in large communities, in submitting to the innovations of yesterday, when they suffer the value of their property to be diminished, and their privileges restricted, without an effort to prevent it.

Ancient proceedings in this court in a breach of the peace.

The peace of the town, during the night, was under the care of the chief magistrate; and he, with his sergeant, might apprehend, and hold in custody, all riotous and disorderly persons, until the morning; but the inhabitants of Dover claimed an exemption, by ancient custom, from any attempt on their personal liberty by the King's bailiff, in the absence of the mayor, between the setting and the rising of the sun.

When any disturbance happened in the night, they inquired the next day into the cause of it, and the King's bailiff required pledges for the apprehending of the person who had broke the peace; and he was liable to pay a fine to the King, and another to the town. If he offended a second time, before judgment, his pledges were to do the same.

Every offender against the law had his *were*, or the sum he was to pay to the town, and to the injured person, according to his rank in society. He had also his *wit*, which was his forfeit to the King; and his *mund*, or his right of protection.

The keeping of the peace in the town, in the night, was considered of such great importance, that they would not, in any case, suffer the breaker of it to pass with impunity. Though it was enacted in the statute of Winchester, in the time of Edward the First, that the hutesium et clamor, or the hue and cry, should be solemnly made in all places of great resort of the people; yet they would not yield their privilege to the statute, unless the mayor and the King's bailiff were previously acquainted with it.

Actions of trespass.

It is very probable, that actions of trespass, under forty shillings, were heard in the inferior courts, within the liberties of the Cinque Ports, prior to the passing of the statute in the reign of Henry the First; for the Customal of Dover says, if the complaint of a trespass be made by a freeman upon a freeman, the bailiff shall put him upon pledges, to appear at the next court, or be committed to prison. If the pledges were produced, but did not appear at the time appointed, they were amerced, and the trespasser was awarded at four pledges; and if they did not then appear, the pledges were again amerced, and all the trespasser's property seized, both within and without the franchises.

If he appeared, and acknowledged the trespass, the mayor and the jurats awarded the damage. If he denied the trespass, and offered to justify himself before an inquest, the plea was to be recorded, and the bailiff was to proceed accordingly; and, as they gave their verdict, judgment was given.

Debt and covenant.

When either of these complaints was made to the bailiff, he was to summon the defendant to appear at the next court; and if he failed, all his property, within and without the franchises, was distrained.

If he appeared, and denied the demand of the plaintiff, then the plaintiff might prove his right, either by the law merchant, or the third hand of men of character; but, if they differed in their examination, the plaintiff was amerced, and the defendant acquitted. If one or both of the parties were strangers, the proceedings were to go on from day to day, or from court to court.

There could be no plea in any case, where the plaintiff had no evidence but his own voice; unless the defendant offered to acquit himself by the same proof.

In cases of speciality, where a defendant denied the deed, he was to be committed to prison, until he had made a fine to the King, and agreed with the plaintiff.

If it was an obligation, bearing date out of the franchise, he was to prove his speciality by witnesses of good character; and if he failed, he was to be amerced.

If the defendant denied the speciality, and said, that he was within age, or out of his mind, or in prison, at the time of executing the speciality, and it was found to the contrary, the defendant was to be committed to prison, and to be amerced.

When a complaint was made against an executor, the plaintiff was to prove by his own hand, though he had no other speciality; and such pleas were first called in court.

When the complaint was against a stranger, and he could not find sureties to answer the plaintiff, he was to be committed to prison; and if he was convicted, he was to continue there, until the plaintiff was satisfied; if this was done within fifteen days.

It was in this court Prince Edward, in the year 1265, while he was Warden of the Cinque Ports, exacted an oath of the Barons, to bear faith to his father, for they had been wavering, and changing during the Barons wars.

CHAP. XII.

The hundred court. Ancient proceedings in it, in criminal and other actions.

The Barons of the town and port of Dover had sac and soc, tholl and theme, infangtheff and utfangtheff, granted them by Edward the Confessor; with the privilege of holding a hundred (as it is called in their Customal), or a court, for hearing and determining criminal, and other actions, committed in their franchise. They also claimed the right of holding this court at any time, and in any place, within their liberties, when they were from home, on the King's service.

The vacation was from the feast of the Virgin Mary, to that of Saint Andrew, according to their Customal; but in Doomsday Book it was only until Saint Michael; and this privilege, with others there mentioned, were practiced in Dover, when Duke William landed in England.

This record proves, that the holding of the hundred court, within the jurisdiction of the town, is of high antiquity. The mayor presided in this court, with an authority similar to a Saxon prince, or a thane. He had, like them, a certain number of persons, or sectatores of the court, associated with him, to assist him with their counsels, but the president claimed the sole right of pronouncing judgment.

* Doomsday Book, p. 1, and Dover Customal.

The hundred court, at Dover, being a moveable one, it was similar to that of a Saxon prince. In the early history of Saxon legislation, the court of a King, or an Earl, was not regularly confined to time, or place. They had numerous palaces, extensive domains, and a splendid suit of noble attendants, consisting of the most powerful and opulent barons, intelligent clerks, and brave warriors, besides a long train of retainers ; and they could readily form a court, at any place, for the administration of justice. The Kings of England sometimes decided the controversies of their people, when they visited their palaces in the country, to partake of the sports of the field.

When the hundred was held in the name of the subject, it was considered as the King's court ; and it was peculiarly adapted to ease the earl and the sheriff in their tourne.

It has been said, that the members of the hundred court had no power to condemn a prisoner to slavery, or death ; and if the criminal thought himself aggrieved, he might appeal to a superior court. This might have been the case, where sac and soc had not been annexed to the hundred. Sagha, signifies cause of actions ; and soca, a liberty, or the privilege of judging. The governors of towns often acquired authority by custom, and they might hold pleas of lands ; but the taking cognizance in criminal matters, was first given in charters, granted by different Kings. Edward the First, after the conquest, confirmed to the Barons of the Cinque Ports, not only sac and soc, but tholl and theme, infangtheff and utfangtheff, and many other privileges, which he acknowledged that he had seen mentioned by his predecessors.

The members of this court, upon entering on their office, were anciently sworn, by laying their hands on a case of relicks, or any thing they deemed sacred ; and their oath was, that they would neither condemn the innocent, or acquit the guilty. The usual method of holding this court at Dover, was from fifteen days, to fifteen days ; but the mayor, by giving three days notice to the King's bailiff, might summon a special court at any time.

But exclusive of the privilege of holding courts, the Barons of the Cinque Ports had many exemptions granted them. They had all and singular the fines, amercements, ransoms, issues, forfeitures, and other profits whatsoever, arising from and in their courts respectively; and they might levy them by their officers, for their own proper use, from time to time, by an action or actions for debt, prosecuted in any court of record within the Cinque Ports, or their two ancient towns.

They were not to appear in any shire or hundred, or other court within the realm of England. Their charter says, "That they are free from the suits of counties and hundreds; and if any will plead against them, they shall not answer, nor plead otherwise than they were wont to plead, in the time of our Lord King Henry the Second."

The customs of the ports were all attended to in their charters; and they add, "That the mayor and jurats, bailiff and jurats, in every port and member, by complaint before them, to be relieved in the court of any port, or member of the ports, in any place, days or times, most convenient to be held, according to custom, within any such port or member, were to give judgment upon all sorts of pleas, and all sorts of actions, real, personal, and mixed, happening by sea or by land, within any such port or member; and attach those persons, and commit their bodies to prison, against whom such personal actions might happen to be prosecuted." They were to be Oyer and Terminer of all and every the aforesaid pleas, and give judgment upon proofs and execution to be done, according to the custom of the said ports; so that neither the Constable of the Castle of Dover, nor the Warden of the Cinque Ports, nor the Admiral of the same, nor any vicegerent appointed by him, could interfere in any matter or thing, happening within the limits of the said ports, or their members. They were also to hear and determine all sorts of pleas belonging to the crown, treason excepted; neither was a Baron of the Cinque Ports to incur any fine, contempt, forfeiture, loss, or damage, in body or goods; and by shewing their letters patent, before any justice or minister, in any place of

record throughout the whole realm of England, upon that shewing, they were to remain in their strength, and be allowed to them, without any writ or proofs thereupon further to be prosecuted.

* *The ancient practice in this court, in a case of suspicion of having stolen goods in possession.*

If a person was suspected of having stolen goods in his possession, he was summoned to appear at the next hundred court, that a legal inquiry might take place.

If he gave satisfactory answers to the court, he had a day assigned him to produce his warrantors, or the persons of whom he bought the goods, or those who were present at his purchasing of them.

While the proofs were pending, the goods remained in the bailiff's ward, with the seal of the suspected person affixed to them. If he returned, on the day appointed, with his vouchers, and proved his legal right, the goods were to be delivered to him; but if they did not appear, the property was forfeited.

* *Cutting a purse, or picking a pocket.*—When a thief was detected in the act, and the purse was found upon him, he was carried before the mayor, and the King's bailiff, and his property was attached within the liberties, and a day assigned him to be heard. If the fact was proved, he was sentenced to stand in the pillory, and to have his right ear cut off. He was then led, by the town serjeant, to the limits of the franchise, and compelled to forswear the town. If he returned, he was to lose his left ear, and quit the jurisdiction; and if he was found again within the liberties, he was in the mercy of the court, to have either a public mark, to shew he was a thief, or to suffer death.

* Rye Customal, c. 20.

* Dover Customal, c. 27—Winchelsea, c. 21—Romney, c. 11 and 19—Sandwich, c. 33.

When a thief was taken within the franchise with the property upon him.—The King's bailiff was to attach both the thief and the property, and all he possessed within the liberties of the town, which were forfeited to the King; and a day was assigned him to be heard. He was to produce his warrantors, as in suspicion of felony; and if they denied the warranty, he was obliged to find pledges, to abide the decision of the court.

Proclamation was then made for the prosecutor to appear at the next hundred; but, if he did not, it was repeated a second time; and if there was no prosecutor, the thief was acquitted.

If he appeared, and produced sufficient mainpernors to prosecute, the court proceeded; and if he failed in proving the theft, either he, or his mainpernors, were committed to prison, until the wit was paid to the King.

By the usage of the Cinque Ports, the King's bailiff had the names of thirty-six men given him; and when they were called over, if any one failed in answering, the thief was judged guilty. If they appeared, and answered, the King might, by his favor, excuse twelve of them, and the mayor and the bailiff twelve more, and the remaining twelve were to swear, with the accused person, that he was not guilty; but if any one withdrew his hand, he was condemned.

When the thief was convicted at the suit of the subject, the prosecutor was the executioner; but if, at the King's suit, then his bailiff, or his substitute, performed the office.

At Dover, the thief was led to the top of a hill, called Sharpness, and from which he was cast down. At Folkstone, they inflicted a similar punishment, by throwing him from the edge of a precipice, into a valley called Stroodway; and at Winchelsea, he was hanged in the salt marsh, on the north side of the town.

Of a felon claiming sanctuary.—If a felon fled to the church for sanctuary, the mayor was to go, and inquire of him the cause of his

being there ; and if he confessed the felony, it was to be entered on record, and he was to seize all his goods for the King.'

The thief might remain in his sanctuary forty days unmolested ; but, at their expiration, he was to abjure the town, and name the port to which he intended to go. He was then to take the cross in his hand ; and while he kept the direct road to the port, he was not to be molested, under the penalty of forfeiting life and property.

The King was to retain, for a year and a day, the lands and tenements of the thief, and they were then to return to the heir in ga-velkind.

If either a stranger, or a freeman, fled from the franchise, for a felony done in the franchise, the mayor might send and demand him in any place, excepting holy church ; and the lord of the fee, or his minister, was to send him back in safety.

** Hamsoken, or Hamsoca, from the Saxon hama, a house; and soca, a franchise.—The proceedings against a hamsoker, for feloniously entering a house, against the peace of the King, were the same in the courts of the Cinque Ports, as against a thief.*

If a house was entered by force, the town was liable to be amerced ; but the fine was relinquished by the King, in favor of the Barons of the town.

³ Trespass, personal injuries, assault, battery, bloodshed, and mayham.—Mayham has been defined a mutilation of the members, by an illegal act; by which a person might be prevented from defending himself, or annoying his enemy.

The proceedings were similar to those which were taken against a felon. The bailiff was to attach the aggressor, and put him to simple

¹ Dover Custom., c. 14—Winchelsea, c. 7—Romney, c. 7—Rye, c. 19—Sandwich Cust.

² The same Customs.

³ Dover Custom. c. 29 and 30—Sandwich, c. 18—Romney, c. 25—Winchelsea, c. 22.

pledges, or, as it is expressed in one of the Customs, boroughs, for he was not to be committed, either to prison, or the stocks, if he could produce his sureties to make his defence at the next court.

If he did not appear, his pledges were amerced six-pence; and they were doubled every time, until he came into court; and this was continued until he justified. His effects were seized within the franchise, until he made satisfaction to the complainant.

If the plaintiff was only smitten by the hand, he might prove the assault by his own hand; but if with any thing else, he was to produce four compurgatores, to prove the fact with him. If either of them withdrew the hand, the plaintiff was to pay the fine the court would have awarded for the assault, or he was committed to prison.

If the defendant pleaded that he was chased by the plaintiff unto death, and could not escape for wall or for water, he was to prove it by his compurgatores.

** Homicide and murder.*—When a person killed a thief, or a man, by accident, in defending his property, without any malice aforethought, and went immediately to a magistrate, and the friends of the deceased, and gave a circumstantial account of the matter; if they were satisfied with his relation, he might purge himself in their presence, with his own oath; or they might proceed as in a case of felony.

** Novel Disseisin.*—This term is derived from the French, and it signifies the recently taking possession of lands or tenements unlawfully.

By the feudal law, if a person was dispossessed of his lands or tenements, for a year and a day, without demanding his right of pos-

¹ Dover Custom. c. 29 and 30.—Sandwich, c. 18.—Romney, c. 25.—Winchelsea, c. 22.

² Dover Customal, c. 17.—Winchelsea, c. 28.—Rye, c. 10.

session, he lost them. This law was adapted to the genius of a people, whose profession was arms, and who held their lands on condition of performing certain services.

The Barons of the Cinque Ports were obliged, by their charter, to fit out ships, for the use of the King, for fifteen days, at their own expence; and it was their interest to determine an assize of novel disseisin, with all possible dispatch, as the quota arising from the premises in dispute might be wanted to raise the necessary supplies.

The proceedings.—When a Baron of the Cinque Ports complained to the King's bailiff, that he was illegally dispossessed of his lands, he placed the premises in dispute under the peace of the King, to prevent the disseisor from conveying them to a third person; and the disseise from entering by force. With the consent of the mayor, he then appointed a court, and issued his summons for the parties to appear.

When the plaintiff came into court, he was obliged to find two pledges, capable of paying the fine to the King, if he did not proceed with the assize. The bailiff then appointed twelve legal men, of the town, to take a view of the premises; and seven of the twelve, at least, were to make a particular survey.

While they were upon the spot, they were to inquire of the claimant to point out the boundaries of the estate; whether it was leasehold, or freehold; whether it belonged to the church, or to one or more persons. If he could not answer their questions, they considered his claim as frivolous and vexatious, and the assize determined with the survey against him. If he gave satisfactory answers, they proceeded to a hearing.

There was no essoin allowed in the pleading; and if either of the parties failed in putting in appearance, he was in mercy to the King.

If they proceeded to a hearing, the evidence of the twelve men was read in court; and if the plaintiff obtained judgment, he re-

covered with the rent and damages; and the defendant was to pay the fine to the King, or go to prison.

Recognition of mort d'ancester.—This was to protect the heir under the feudal law, against any intruder upon his estate, on the death of his ancestor.

In this, and all other varieties, which could happen, under similar writs of right, the mayor, with the consent of his brethren, gave judgment according to the evidence of the twelve men, who made the survey.

Estrepement, from the French estropier, to waste or destroy.—This writ was to prevent waste by a tenant in dower, and for life; and by a guardian.

Without this restriction, a tenant or a guardian might have delivered up a plundered and dilapidated estate to the heir, which might have disabled him from paying the proportion of his expence for fitting out the fleet, and for watching and warding; therefore, it was an advantage to the public, that the estate should not be injured by the possessor.

The proceedings in the court were the same as in novel disseisin.

Alienation of lands, within the jurisdiction of the Cinque Ports.—Every person, who wished to convey his lands by bargain, and sale, claimed the privilege of making final concord before the magistrates, in their own court. If this practice was not introduced by the Normans, they brought it into more general use, by adopting charters, with waxen seals, as the best method for securing right in livery, and seisin.

The levying of final concord in the courts of the Cinque Ports, is a practice, which seems to have been governed by the statute of the

Dover Customal, c. 18.—Sandwich, c. 20.

sixth of Edward the First; for, from that time, the parties were to be of full age, of a sound memory, and free to act.

If a woman, covert de Baron, stood seized of the reversion of lands or tenements, within the jurisdiction of the Cinque Ports, which she wished to alienate, she might appear in court, and be examined in the absence of her husband, by the King's bailiff, and the mayor, and his brethren; whether what she requested was her own voluntary act; or whether she was compelled contrary to her wishes. If she answered, she was free, she was to have recognition. The parties then appeared in court, and the fine to the King being settled, which was in proportion to the amount of the purchase, the agreement was recorded by the town-clerk.

At Sandwich, the corporation claimed a fine of four-pence, for every pound of silver, and a fee of six-pence, for the town-clerk. The purchaser had a copy of the record; and this was considered a sufficient bar to any future claim of the woman's heirs, unless it was made as soon as they heard of the sale.

When they sold their estate, at Dover, to a stranger, without acquainting the next heir, he or she might come to the hundred, and claim the right of being the purchaser of the premises; and the mayor and the jurats were to award it at one shilling in the pound less than it was sold for; and the seller was to make up the deficiency to the first purchaser.

The mayor and jurats of Winchelsea claimed the privilege of alienating lands and tenements, and rents, within their franchise, for a chauncry of masses, for the support of an hospital, for the honor of holy church, and for the churches of Saint Thomas and Saint Giles, in the town, without licence from the King, or any other lord.

Distress for rent.—After the lords of manors and baronies accepted of a sum of money, called escuage, for military services, a relaxation was gradually introduced, which tended to soften the rigour

of the feudal system. One of the early alleviations seems to have been the restraining of the lord of the fee, from entering on the premises, in a wanton and an oppressive manner, without summoning the tenant to appear in the hundred court, to shew cause why a distress should not be taken upon the premises.¹

Proceedings.—When a tenement within the franchise had been shut up for a year and a day, and the landlord was apprehensive there were not sufficient effects on the premises to answer the rent, he might complain to the mayor and bailiff; and if he could prove what he advanced, by four legal men, in open court, they sent the sergeant and the common clerk to the tenement, to make proclamation in these words; “He who is the tenant of this house, let him appear, and pay the arrears, within a year and a day, and satisfy the landlord for his rent, or assign a reasonable cause, upon pain of losing the tenement for ever.” They then drove down a stake before the house, in the presence of their neighbours, to denote inclosure; and their proceedings were recorded.

If the tenant did not appear within the time assigned him, the landlord came again to the hundred court; and, according to the usage of the town, they sent the sergeant and the common clerk, with the plaintiff, to pull up the stake, and put him in quiet possession.

The landlord was to pay four-pence to the clerk, and two-pence to the sergeant; and these fees were due to them, for all attachments within the franchise.

This proceeding was good against tenants for a term, tenants for life, tenants in coverture, tenants within age, or in fee, or full age.

**The taking of withernam.*—From the Saxon weddel and nam, which signifies, to take again, or to make reprisals. A writ of wither-

¹ Dover Customal, c. 23—Winchelsea, c. 28—Rye, c. 43.

² Dover Customal, c. 32—Winchelsea, c. 31—Sandwich, c. 42.

nam, or investitio, as it has been called, signifies a second, or a reciprocal distress, in lieu of the first taken; and this mode of proceeding was adopted, when a distress was carried out of a sheriff's jurisdiction, or out of the liberties of a privileged town. This writ empowered the officer, to whom it was sent, to seize the goods of him who had made the distress, and removed it illegally. Property taken by a writ of withernam, could not be replevined, until restitution was made to the complainant. The Barons of the Cinque Ports issued this writ upon several occasions; and, in some instances, their process seemed to differ from the practice in the King's court.

If the lord of any privileged jurisdiction, or the magistrate of a free town, compelled any of the Barons of the Cinque Ports to pay toll or customs, which they were exempted from paying by their charters; or if they were robbed, by land or by water; or if they had any debt owing to them by the inhabitants of another town; the creditor, or the injured person, by applying to the mayor, might obtain his writ for any place, within the King's dominions. When the complainant came into court, to demand his first letter, he was obliged to declare for what purpose he asked it. He said, "Sir, I want letters of process from this community, to recover a debt owing to me, by John Roe, of the town of Calais, according to this obligation, or for merchandize sold to him, or for any injury sustained, and which is justifiable in the town in which John lives."

The mayor then granted him the letter, addressed to the chief magistrate of the town of Calais, or to the town where the debtor or trespasser resided, to request him to examine into the merits of the claim, and if he found them justifiable, then to justify; and compel the said John either to pay the debt, or to make the complainant recompence for the injury he had sustained.

If the first letter remained unanswered a limited time, a second was sent, and also a third, and there the application to the magistrate, or to the governor of the town of Calais, ended.

The complainant then went into court, and deposed, before the mayor, that his letters had been sent, and that he had acted in every respect as the law required of him ; and that the burgesses had failed in their duty, in not doing him justice. He again proved the justness of his claim, and the mayor pronounced judgment against the whole commonalty of the town of Calais, for the sum demanded. A writ was then issued, to seize the effects of the first person from Calais, who should bring merchandize within the jurisdiction of the town of Dover, because the magistrates of Calais had refused to do justice.

If the inhabitants of Calais, after this proceeding, withdrew themselves from Dover, to traffick with any other town within the liberties of the Cinque Ports, the mayor sent his letter, with the record, to the chief magistrates ; and, according to their ancient custom, either of them might take a distress upon the record, in the same manner the mayor of Dover would have done, if they had brought the goods into his jurisdiction.

Though the goods taken under this writ, were absolutely forfeited, to the amount of the debt and costs ; yet, by the courtesy of the Cinque Ports, the proprietor of them had time allowed him to return home, to acquaint the magistrates of what had happened to him by their neglect.

If this application of their own citizen did not induce them to make the proper inquiry, and to do justice, the King's bailiff, after retaining the property forty days, with the assent of the magistrates, ordered the goods to be appraised, and delivered to the plaintiff to be sold. If they produced more than the debt and cost, the surplus was sent to the owner.

In a contest which the Barons of the Cinque Ports had with the citizens of London, in the reign of Henry the Eighth, they proved, that they had the privilege of buying and selling in any manor, lordship, or town corporate, without employing a broker, at least one hundred years before them.

If distress was made for toll or custom, upon any of the Barons of the Cinque Ports, for buying and selling in any fair, or market, within any privileged jurisdiction, and they could not procure redress, they always proceeded by a writ of *withernam*, to do themselves justice, whenever an opportunity offered.

When Sir John Rivers, knight, recorder of the city of London, and several other gentlemen, attended at Dover, at a special brotherhood, in the sixteenth year of the reign of Elizabeth, to settle a difference between the citizens, and the Barons of the Cinque Ports, they produced to them an authentic roll of parchment from Winchelsea, and another from Hithe; a customal from Sandwich, in Latin; an old book, in French, belonging to Dover; an ancient customal, in English, belonging to Romney; and an old book from Tenterden, in French; by which they proved, that the Barons of the Cinque Ports might use letters of *withernam* upon the citizens of London, in divers cases.

The last mention of the process of *withernam*, in the register book of the Cinque Ports, was in the year 1669.

It may be questioned, by this summary method of proceeding in the courts of law, in the Cinque Ports, by pledge and gage, fines and amercement, and compurgatores, whether they had any grand jury to find the bill, or a petty jury to try the trespasser, as they have at present; and the practice in the law courts, at Dover, seems now to be a novel introduction.

During the Commonwealth, the rights and privileges of cities and corporate towns, were as little regarded, as those of individuals; and about that time, a very material alteration was made in the practice of trying causes in the hundred court, which continued until the restoration. On the prospect of a permanent government, the magistrates of the town of Dover had a new code of law proceedings drawn up, for the direction of the attorneys in their practice. From that period they dropt the ancient terms. We hear no more of the King's bailiff; and new proceedings, of course, produced new terms.

About the year 1664, the town-clerk produced the following new instructions, as a guide for the practice of attorneys in this town.

Issuing of process.—Every process was to bear date on the day of holding the court; and if the person resided in the town to whom the process was sent, it was returnable the next court day. If the process was sent to their deputies in Thanet, or to Ringwould, it was made returnable the second court day.

Of a capias respondendum.—This writ was given to the officer called the water bailiff, and he was to return a cepi corpus, and produce the person in court. As he was only a servant, he was not permitted to take bail to any action; and if he did, it was void; for it was required to be taken before the mayor, or his deputy, in court.

The giving bail before a single magistrate had been considerably abused; and, in the reign of Henry the Seventh, it was enacted, that two or more justices of the county, city, or town corporate, should be present, to take the bail of a person bailable by law. The practice of the court, under this new regulation, seems to have been founded upon that statute.

If the person did not produce his bail, his appearance was not recorded, and a scire facias was issued, before they proceeded to judgment. This practice was taken from that statute, which says, “Where a matter is recorded before the chancellor, and the King’s justices of the records, in their rolls, there ought not to be thereon the common process of an action, by summons, attachment, essoin, views of lands, and other solemnities, wheresoever the nature of the plea might be, if enrolled, and of such a nature, to which the King’s court might, by the law and custom of the realm, give the authority of a record.”

Declaration and proceedings thereon.—If the person was sent to gaol, the plaintiff was to declare, the same court day, to shorten the

time of his confinement. This was keeping in sight the spirit of their ancient practice ; which was not to infringe on the liberty of an individual, any longer than it was necessary, to comply with the forms of the law.

When the prisoner was bailed, the plaintiff might have a rule to declare the second court day ; and, upon motion, he might obtain a third day peremptory ; and if he did not then declare, according to the rule, he was nonsuited.

After entering the declaration, a copy was delivered to the defendant, with his imparlance to plead the next court day ; and if he required a further time, he might have a rule peremptory for the next court ; and upon motion, and shewing sufficient cause, such as the want of writings, or of evidence, or of counsel, he might obtain a further peremptory rule ; and if he did not then plead, judgment was given against him, the same as if he had not pleaded.

The same rule was to be observed for explications, rejoinders, and other pleas, until issue was joined ; but special pleas, and demurers, were not to be permitted, unless by the advice of counsel.

If the plaintiff did not bring the voice to a hearing the first court day, after the joining issue, the defendant might proceed by proviso.

After judgment, the party who gained the suit, might have execution against his opponent ; but he could not obtain execution against the bail, until he had procured a scire facias, and the water bailiff had made the return, or twice nihil habeto.

Court fees.—The town-clerk was to have two-pence, and no more, for entering the several rules, and the imparlances, according to the ancient practice of the court.

The attorneys were to have one shilling and eight-pence, for attending the first court day ; and four-pence for every time they attended again in the same action. On the day of trial, they were to have three shillings and four-pence.

After joining issue, the record was to be fairly written on parchment, for which the town-clerk was to have two-pence for each sheet.

The attorneys were to have copies of declarations before pleading.

The second new code, without date.

Though this code, for the use of the attorneys, has been considered as the last, it bears internal evidence of being prior to that of the year 1664.

Of putting in of appearance.—On the return of the warrant, the plaintiff was to appear, either by himself or his attorney; and in case of default, the defendant had a nonsuit.

If the defendant was a foreigner, and did not appear the first court day, he was amerced three-pence; the second time, six-pence; and the third time, nine-pence; and if he failed the fourth time, the plaintiff had judgment upon default.

If the defendant was a freeman, he had three essoins; but if he failed the fourth court day, the plaintiff might declare, and have judgment.

Of judgment.—Judgment, upon an action of debt, might be obtained without a writ of inquiry.

In judgment upon default, in an action of trespass, and trespass upon the case, or assault and battery, the plaintiff was to have a writ of inquiry, that the damages might be settled by a jury, on the testimony of witnesses; and he might then enter judgment.

Pleadings.—When the plaintiff had declared, he might give the defendant notice to plead the next court day; but if, for particular reasons, he required a further time, he might have a peremptory day; and if he did not then plead, the plaintiff's attorney might demand judgment.

If the defendant appeared, and pleaded the general issue, the plaintiff might have a *venire facias*, for the mayor to summon a jury,

and a habeas corpus for the defendant to appear the second court day, and to enter into recognizance; but the defendant was not bound to plead, until the plaintiff had produced his boroughs; for if he was sued wrongfully, and the plaintiff was a foreigner, he might be left to pay his own cost.

If the defendant did not answer to the issue, but pleaded specially, the plaintiff was to have a copy, that he might, by the advice of his counsel, either reply or demur.

If the defendant was committed to gaol, the plaintiff was always to declare the first court day, or be nonsuited.

If goods were attached, and a return made, and a pone issued, to bring the business before the court, the plaintiff was to declare the first court day; and if the defendant did not appear, and bail them, the plaintiff, upon default, might have his writ venditioni exponas, and sell the goods, upon proving his debt, and giving security; and he might have the money out of court, to discharge the sum due to him.

Trial.—When the cause was at issue, and a day fixed for trial, the plaintiff was to have his venire facias returnable the preceding court day; and a habeas corpus returnable on the day of trial.

If the plaintiff could not procure his witnesses, he might have his jury process, and give the defendant's attorney notice, at least six days before the trial, or pay him such expences as the court might award.

Judgment might be asked the same day as the verdict, and the cost taxed the next court.

Here closes the instructions for the use of the attorneys. If the court rolls could be examined, it might probably be discovered, when further innovations were introduced; and all ancient rules for receiving of pleas, and for trying of criminals, were laid aside at the expense of humanity.

The mayor still continues to hold a court from fifteen days to fifteen days, by adjournment; but the hundred is now called a general sessions, and goal delivery, with very long intervals.

If a person be now committed soon after the general sessions, he may be punished with a rigorous confinement of many months, and discharged not guilty, with his health impaired, and his constitution injured by a long imprisonment.

The magistrates of every privileged jurisdiction, who assume this power, ought to consider from whence they derive it; and whether there be any law to countenance the practice.

The statutes which authorise justices, acting under the King's commission, to hold sessions four times in each year, require them to do it, under pains to be inflicted at the discretion of the King's council, if any person complains.

If the justices of the peace for a county are answerable to a controuling power, for any wilful neglect, ought not magistrates for any exempt jurisdictions to be the same, whenever they depart from their ancient customs, confirmed to them by charter? for this is introducing innovations, unknown in their ancient privileges; and where this is done, can such corporate bodies be said to be acting legally? or will the law protect them in the exercise of their novel practices?

When it is considered, that it is the poor and the ignorant who suffer, and who are incapable of calling for precedents, or of judging of the legality of the proceedings against them; it is much to be lamented, that a law should be wanting to compel exempt jurisdictions to act, either by their ancient proceedings, in the trying and punishing offenders, or by the general law practised in counties.

CHAP. XIII.

The Warden's court, at Shepway. Court of appeals. The Warden how received upon entering on his office. The members which composed the court. Their duty. William the First altered the proceedings in the Earl's courts. Gave the clergy a separate jurisdiction. The Warden's summons. The Baron's answer. Proclamation. Barons how seated. Their dismission. A general summons. Of hearing pleas and appeals. Proceedings thereon.

The title of Warden, or Guardian, is of Norman origin; but the office, and the duties of it, were prior to the Norman Conquest. The Warden's court was generally held at Shepway, near Flitche, but it might be held at any other place, at his pleasure. It was superior to every other court, within the liberties of the Cinque Ports; and, as judge, he could call a general meeting of the members who composed it, whenever he pleased, by giving them timely notice. His office was anciently a place of importance. He was entrusted with the keeping of all the authentic copies of the ancient customs and laws of the Five Ports, and their ancient towns. He could inquire, whether all their laws and privileges had been faithfully observed, since their last meeting? To him lay an appeal to judgment, passed in any of the mayor's courts, within his jurisdiction. He could reverse their judgment, and amerce the aggressors, if they had been guilty of mal-practices. If the facts were proved, the towns lost their franchises, and were in mercy to the King.

In the reign of Edward the Confessor, Godwin, Earl of Kent, was Warden of the Cinque Ports ; and he possessed, within his jurisdiction, all the authority of a Saxon prince. This evidently appears, in a breach of the peace, which happened in his time, at Dover. His power was so great, that he would not suffer even the King to inflict any punishment on the rioters, nor to interfere the least in the matter. Eustace, the Earl of Boulogne, who had married Goda, the sister of King Edward, was returning with his suit, in the year 1051, from a visit to his royal brother, and he came to Dover. Some of his retinue, in an imperious tone, demanded a particular house for a lodging, of one of the townsmen, who was probably a freeman, and he met with a refusal. This produced words ; words excited passions ; and passions blows ; which caused a general quarrel. In this affray, several of the inhabitants were killed, and the Earl lost about twenty men. He escaped with a servant, and returned in haste to the King, who was then at Gloucester, with his courtiers ; and he complained of the injuries, and the insults he had experienced at Dover ; and he demanded immediate satisfaction. The King sent for Godwin, and ordered him immediately to chastise the insurgents.

The Earl replied, that it was not the custom in England to punish any person unheard ; neither were the rights and privileges of the inhabitants to be violated. He said, the persons accused ought first to be summoned ; and if, upon enquiry, they were found guilty, they should make satisfaction.

This was speaking like a just, and an impartial judge ; but he concluded his speech in the high tone of authority ; by declaring, as Earl of Kent, and Guardian of the Cinque Ports, it was his duty to protect those within his jurisdiction from the insults of foreigners. As he was the patron of powerful barons, who had under them many retainers, whose professions were arms, he could easily have put his threats in execution ; and it might have been an hazardous experiment for the King, to have endeavoured, by force, to compel the proud Earl to execute his commands.

The Barons of the Cinque Ports were amenable to their Warden, for any abuse or misapplication of their privileges, and for every act of *laese* Majesty.

The charter says, "We will, that the Warden of the Cinque Ports, for the time being, either by word of mouth, or by petition, to be made by the party who shall perceive himself to be wronged, do enter into the said port or members, from time to time, and cause the plea touching this defect to be brought before him, within the same port and members, in the presence of such mayor and jurats, and there examine the plea, and correct and amerce such default, if there be any; and there administer, with speed, full and complete justice, according to law and custom. We further will, that pleas of all sorts of treasons shall be heard, and determined, before the Warden for the time being; the mayor, jurats, and bailiffs of the ports being summoned, according to custom used in the same port at Shepway, and according to the law and custom of the court."

The Warden held a court at Shepway, within the liberty of the Cinque Ports; where the principal inhabitants assembled to meet him, when he first came to enter on the duties of his office. As the representative of the Cinque Ports, and their ancient towns, they acknowledged him their patron, and military leader, and they presented him with their accustomed gifts. This practice was continued for several centuries. In the year 1598, they made their offering of one hundred pounds. Their gift was not always the same; for in the year 1607, they gave their new Warden a piece of plate, of the value of one hundred and fifty pounds. This custom of the delegates of the ports offering a gift to their new Warden, was a heavy tax on the inhabitants, when they frequently changed their Guardian; but the practice is now discontinued, with the ancient method of receiving him.

When the King appointed a new Warden, the Barons of the Ports, according to ancient custom, required a precept, addressed to the mayors, jurats, or bailiffs, of each town, under the seal of office, commanding them, in the name of the King, to select six of the best and

most discreet of their community, together with their mayor or bailiff, to meet him, at Shepway, on the day fixed in his summons. No mayor or bailiff could bring with him more than six persons at the meeting to receive their Warden, under the penalty of one hundred shillings.

A copy of the summons.

"I, D. E, Constable of Dover Castle, and Lord Warden of the Cinque Ports, their two ancient towns and their members. To all the mayors, bailiffs, and jurats of the said ports and towns, and to each of them greeting. For certain good causes me thereterto moving, I have thought it necessary to notify to you, by these presents, that I propose, and am resolved, by God's grace, to be at Shepway, in Kent, within the liberties of the said Cinque Ports, upon the fourth day of June next ensuing, by eight of the clock in the forenoon, then and there to make solemn serment and promise, to uphold and maintain the liberties and privileges of the said Cinque Ports, to the best of my power, according to the usual custom of the said Cinque Ports; therefore, by the authority of my said office, these are, in his Majesty's name, strictly to charge and command you, and every of you, to give good summons and lawful warning, to six, five, or four jurats, or others of the most discreet men, of every of the said ports and towns, and members corporate, personally to be and appear before me, at Shepway; and that you, the said mayor and bailiffs, and every of you, be likewise there present, to do as you have been accustomed, and belonging to you to do; and that you do then and there certify, under the several seals of your office, what you shall have done in the accomplishment of the precept; certifying to me, also, the names of all such persons whom ye shall have summoned as aforesaid; and therewith returning back unto me this mandate. Whereof fail not, under the penalty of one hundred pounds."

If the Warden did not give the usual notice, they did not return any reply; but, if they had full forty days, they then assembled the commonalty, to nominate proper persons to meet his Lordship, at Shepway, on the day appointed; and they then returned their answer.

This practice seems to have been taken from our Saxon ancestors, who gave forty days notice, by a general summons, that at a certain time, things presentable would be heard and determined in the shire court.

The answer.

" To all to whom these presents shall come, or may appertain, and especially to D. E, Constable of Dover Castle, and Warden, Chancellor, and Admiral of the Cinque Ports, their towns and members. We, the mayor, jurats, and commonalty, of the ancient town of Dover, and one of the Cinque Ports, in the county of Kent, send greeting. May it please your good Lordship to be advertised, that we have nominated, elected, and appointed our well beloved Combarons, A. B, the mayor of the town, and C, D, E, F, jurats of the said town, to appear before your Honour, at Shepway, within the liberty of our ports, on the fourth day of June next ensuing, by eight of the clock in the forenoon of that day, then and there to do such service, as to us appertaineth to be done, by the ancient usage and custom of the said Cinque Ports and their members, at the solemnization of the serment or promise of the Lord Warden of the said Cinque Ports, at the first entering on his said office, according to your Lordship's commandment and pleasure, contained in your letter of summons, therein of late to us, among other things, made known; wherein we do hereby ratify, confirm, and allow all and whatever the said mayors, bailiffs, and jurats, or the most part of them, shall do, or consent to be done. In witness whereof, we have hereunto caused the common seal of the town to these presents to be affixed."

At the meeting of the different members, on the day and time appointed, proclamation was made by the sergeant, as follows:—

" O ye, O ye, O ye," (or hear ye, hear ye, hear ye,) " all mayors, bailiffs, and jurats, of the Cinque Ports and their members, summoned to appear personally before the Lord Warden, at the King's court of Shepway, to be holden here this day, draw near, and attend to the court; upon the pain and peril that shall wait upon those who shall fail of it."

The ports of Dover and Sandwich being of equal power, their mayors were the first called; and their seats upon the bench were the next to the Warden; the one on his right hand, and the other on his left, as they happened to be mentioned; and they were accompanied with a certain number of jurats from each place.

The next was the bailiff of Hastings, whose seat was on the right hand of the Warden, next to the mayor, who preceded him, and he came with four jurats.

The ports of Hithe and Romney yielded the same services, and being of equal rank, their mayors took their seats as they were called; and they were each attended with the same number of jurats as Hastings.

The next were the mayors of Rye and Winchelsea, and being of equal rank, they were seated as they were called, and they brought each of them four jurats.

The mayors of Faversham and Folkstone being of equal rank, they took their seats in the same order as those who preceded them. Faversham sent five jurats, and Folkstone four.

When the mayors of the five ports, and their two ancient towns and members, had answered to their names, the bailiffs of Lidd, Pevensey, Seaford, and Tenterden were called; and as each of these towns contributed in the same proportion to the supplies, they were placed on the left hand of the Warden, and the bailiff of Tenterden had the last seat.

The Warden then produced his patent, and the letter of attendance, with the official seal, which were read in court.

One of the principal Barons then standing up, said, "My Lord, the manner and customs of this court are, that every one who presents himself to be accepted as Warden, shall swear to maintain the liberties, usages, and customs of the Cinque Ports inviolably."

The form was then read to him, as follows:—

"I, D. E, by my oath taken, to my Lord the King of England, and by my Knighthood, all the liberties, and usages, and customs of,

the Cinque Ports, according to my power, inviolably will keep and maintain."

To which the Warden, holding up his hand to his breast, answered, "Yea."

The Barons did not require him to lay his hand upon the Evangelists; for, as the Warden was generally a Knight, and of the King's council, they considered the form they used as sufficiently binding.

If the Warden had no precept from the King, the sergeant was ordered to dismiss the court, with the usual proclamation; and he added, "My Lord Warden desireth, and prayeth, all mayors, bailiffs, and jurats, and others who have business at Shepway, to depart, and take their ease, until a new summons. God save the King, the Lord Warden, and the whole court."

He then added, "My Lord Warden desireth, and prayeth, all persons present on business, to go with him to the Castle of Saltwood, to take such repast as shall be provided, with a welcome."

This concluded the business of receiving the Warden, and before he could appear at Shepway, in his judicial capacity, he was obliged, by the ancient custom of the ports, to give forty days notice of it, by summons; or the towns were not finable, if the mayor and jurats did not appear.

The general summons of the Barons of the ports to attend the court, to hear and determine pleas of the crown.

"The King, to our beloved and faithful Mayor of Dover, greeting. We command you, that, every business laid aside, ye be at Shepway, on a certain day, before our faithful and beloved D. E., and that you bring with you twenty-four legal and discreet Barons, and others, as they ought and were wont to come, to the place of Shepway, to answer to the justices of the chief points underwritten, viz.

"Of the old pleas of the crown, which were before the court, and undetermined.

"Of new pleas of the crown, which have happened within the liberties of the Cinque Ports, since the last sitting at Shepway.

"That you bring before our justices, at the time mentioned, all pleas, and all attachments, which ought and were wont to come, and be determined at Shepway."

The Warden was to inquire into all treasons and seditions against the King and Queen ; and if any Barons of the Cinque Ports had counterfeited the King's coin, or his seal, or wasted or clipped, or any way diminished the value of it. If any of the magistrates had given erroneous, or false judgment, in any plea, contrary to the ancient customs, privileges, or laws of their respective towns. If any of the Cinque Ports had withdrawn themselves from the service of their ships, after they had been lawfully summoned, according to ancient custom ; and how often, and for what time, and in whose mayoralty. If any of the bailiffs, within the liberties, had taken of the merchants, or any other person, unreasonable or unlawful dues, which they were not authorized to do by ancient custom ; or if any of the said bailiffs had acted contrary to the liberties of the town, after judgment being passed by the mayor, to the detriment of the franchise.

This summons appears to be as old as the beginning of the reign of Henry the third ; as the court was to inquire what ships had been taken in war, and delivered to William de Wrotham, who was Guardian of the Cinque Ports, in the reign of King John, and what had been done with them.

It appears by this inquiry, that the courts held by the itinerant justices, were intended as much to preserve the interest and dues of the King, as to do right to the people ; for they were to inquire what churches were in his presentation, with their situation, and annual value ; and all escheats, and every plea, were there were any fines and confiscations for the King.

The oath of the jurors.—Ye shall truly inquire, and true verdict give, of all the points and articles which ought to be inquired into, at the King's court of Shepway, according to the ancient custom and

usage of the same. Ye shall not spare for any thing to speak the truth ; to say all that you shall be charged with by this court, as far as you do or may know. So God you help, and your holy doom, and by this book.

In pleas which immediately concerned the King, they were to be heard and determined by twelve persons, selected out of the town where the magistrates had been guilty of giving false judgment, or any of the inhabitants guilty of treasonable practices.

Though the Cinque Ports and their members were considered as one community, yet the inquisition was made by those who lived on the spot where the offence was committed, and were supposed to have the best information ; and the oath was considered as a sufficient guard against partiality.

When a person was indicted for sedition, the court proceeded on the trial, without waiting for the apprehending the offender ; and if he did not appear to make his defence, the jury, after hearing the accusation, gave their verdict.

When the aggressor was found guilty of any crime of *laese Majesty*, the Warden, with the consent of the mayors and bailiffs on the bench, pronounced sentence ; and the person, if condemned to die, was immediately taken from the bar, if he was apprehended, and placed upon a sledge, and drawn round the circuit of Shepway, and hanged there, in the presence of such spectators, as were assembled to see a sight, so shocking to every reflecting mind.

When the criminal did not appear, this was considered as a proof of his guilt, and the Warden charged every member of the court to arrest him, and keep him in safe custody, in one of their prisons, if he should be found within any of their liberties ; and to give him information, that he might summon another court the first opportunity, that they might all attend to hear the sentence, and to be at the execution, under the penalty of forfeiting their goods and chattels to the King.

Proceedings in an appeal for false judgment in any of the inferior courts within the liberties of the five ports.—When there was an appeal for false judgment in any of the mayor's courts, the magistrates of that port or town were obliged to quit their seat upon the bench, and to stand at the bar, to wait the decision of the court. The record was to be tried by itself, and not by a jury, or witnesses.

If the fact was proved, the Warden, with the consent of the remaining jurats on the bench, pronounced judgment, and awarded damages to the plaintiff. The mayor and his brethren, who had been guilty of abusing the trust reposed in them, were dismissed from their stations; and the franchise of their town was forfeited to the King, and they were in mercy, until their privileges could be regained, either by favor or purchase.

If the plaintiff could not prove his charge, he was arrested by the Marshal of Dover Castle, and committed to prison, until he paid a fine to the King, and another to the town, which might have been disfranchised by the step he had taken.

Concealing treasure trove.—When any of the inhabitants were accused of finding concealed treasure, without certifying it to the King, or his Warden, he was taken into custody by the Marshal of Dover Castle, and a day was appointed him to plead at Shepway. If he was convicted of concealment, it was an offence against the King, his crown, and dignity, and he forfeited his goods and chattels; but he was in mercy, and he might regain his liberty, by paying a fine.

Neglect of service.—The penalty was the same as for false judgment; they might be disfranchised, but they were in mercy.

The bailiff's neglecting his duty, and taking unlawful fees.—If a bailiff received any fees, which were not established by the ancient custom and usage of the Cinque Ports; or if he neglected to put any sentence, pronounced by the mayor of the town in which he lived, in

execution; or if he acted contrary to such a sentence, or to the liberties of the town; in either case, if the fact was proved to the satisfaction of the court, he was taken into custody by the Marshal of Dover Castle, and committed to prison; until he paid a fine to the King, and another to the commonalty of the town, whose franchises he had violated.

If we may judge from the members which composed this court, and from their proceedings in it, there is reason to conclude, that their plan was formed from the system adopted by their Saxon ancestors, for putting the laws in execution.

The author of the Northern Antiquities informs us, "That the assembling of the first classes in society, with whom the legislative authority was deposited, existed in Germany in the time of Tacitus, and probably long before him. It prevailed in Denmark and Sweden, and there are traces of it to this day. It was carried to Iceland, and there brought to maturity. This practice was transplanted to England; but the bloody wars, and the desolating hand of the first Saxon invaders, disorganized all regular forms of government; and it required the genius of an Alfred to collect and digest a system of laws, to restore order in the kingdom."

Our Saxon ancestors had both suitors and jurors in their courts of law; and there appears to have been the same in the supreme court of the Cinque Ports.

When a Saxon prince, or a thane, presided with his suitors and jurors, he was attended, either by a bishop or his commissary, and they assisted each other, and decided both civil and ecclesiastical matters.

In trials purely ecclesiastical, either the bishop or his commissary presided as judge; and if the person convicted refused to submit to

* Northern Antiq. p. 181.

the sentence, the civil magistrate interfered with fine and imprisonment.

In case of resistance to the civil judge, the spiritual one interposed with excommunication.

William the First, finding it necessary to lessen the emoluments of the Earls, that he might diminish their influence, appointed deputies to act for them, under the pretence of saving them the trouble of presiding in their own courts. He appropriated two-thirds of the fines and profits to his own use, and the remaining third was collected for them by a deputy, afterwards called a Sheriff.

This was a severe blow to the influence and the emoluments of the Earls, and it prepared the way for introducing on the bench an officer, called the King's bailiff.

William wishing to continue in favor with the Pope, who professed to espouse his claim to the crown of England, he proposed to his Holiness a plan of separating the spiritual from the temporal judges, and to give each of them a distinct jurisdiction.

This was introducing another very considerable alteration in the practice of the courts of law; but as the King considered it would be the means of attaching the clergy more firmly to his interest, he adopted it, without considering the difficulties it might entail on his successors.

It appears that they proceeded by pledge and gage in the court of Shepway; and if they had not a jury, as practised in our courts at present, they had twelve sworn men called jurors, which were not always selected from the jurats; but whether they were similar to the jurors in the time of Alfred, I shall leave to those who are deeper read in Saxon jurisprudence than myself.

It is said of Alfred, Il pendist, des suitors dorcester pur ceo que ils judgment un home al a mors, par jurors de lour franchise pur

¹ *Essay on the English Const.* p. 13, 17, 18.—Sullivan, Blackstone, and others.

felony que il scit le forsein et dont ils ne puissent commistre pur la
forrein.

It is further said, he hanged Cadwine, because he judged Hackney to death, without the consent of the jurors, when he stood upon the jury of twelve men;¹ and because they would have saved him against the nine, Cadwine removed three, and put others upon the jury; upon which Hackney did not put himself.

It appears, from the rolls of Alfred, that he punished severely for false judgment; and if it was not the loss of life, it was the loss of situation, goods, and franchise, in the court of Shepway.

The inhabitants of the Cinque Ports in general are as unacquainted with the scite of their supreme court of law, as with the ancient practice in it; which has been for some time utterly abolished, and the mayors of the different ports, and their towns, are left to do what is right in their own eyes.

The manuscript which contained the proceedings in this court, was in being in the year 1692, and was examined by Thomas Turner, clerk of Dover Castle; but when the last trial for *læse Majesty*, or of appeals, was heard at Shepway, it may be difficult to determine.

¹ *Mirror of Justice*, c. 5.—Against Saxon Juries, see *Hicks's Thes.* p. 34, *Reeve's Hist. of the Laws, &c. &c.*

CHAP. XIV.

*The chancery court of the Cinque Ports held in Saint James's church.
Origin of the title uncertain. Ancient duties of the office. Statutes which gave jurisdiction. How acquired in the Cinque Ports.
Encroachments made by the Chancellor. Discontents occasioned by them. A meeting to settle differences. Articles agreed to by the parties. A copy of the commission anciently given to the deputy.*

The chancery court for the Cinque Ports was held in the chancel, in the south aisle of the parish church of Saint James, in the town of Dover.

Whether the Chancellor derived his title from the lattice partition, or screen, by which his court was separated, to give the spectators an opportunity of seeing and hearing what was going on; and when he first had a power to try equity causes, are points which are not easily settled. It can hardly be supposed, that the Chancellor of the Cinque Ports had such an authority before the Chancellor of England; and it is the opinion of Lambard, that he did not acquire any jurisdiction for hearing civil causes, until the reign of Edward the First.

As Bracton, who wrote on the Courts of Law, from the highest tribunal, down to a court baron, did not mention the Chancellor's court, it has been inferred, that the official duty of the Chancellor was at first only to enter the acts and decrees of the Judges; and that King Edward laid the foundation for an equity court, towards the

latter part of his reign. It was enacted, 'that the Chancellor, and the justices of the bench, shall follow the King, wherever his court shall move; that he may at all times have near him some of the sages of the law, capable of ordering all such matters as might be brought into his court.

The justices might hear and determine, according to custom, and usage, and statute; and the Chancellor might soften their sentence, by a more equitable decision; but this does not prove, that he had any power to act, independently of the King; for, in the reign of Edward the Third, it was enacted, that the Chancellor and the Treasurer might hear the complaints of all those who would complain of sheriffs, escheators, bailiffs of franchises, and their under ministers; and also of mainpernors, and common embraceors, and jurors in the county; and of the gifts and rewards which the said ministers did take of the people; and they were to give speedy redress.

In another statute of the same reign it is said, 'that if any man feeleth himself aggrieved concerning achators, and purveyors, and mayors, and constables, and will come into chancery, or any one for him, and thereof make his complaint, he shall presently there have remedy. Though this statute may be considered as one of the corner stones of the chancery court, it may be doubted, whether the equity lawyers began in earnest to erect their present superstructure prior to the reign of Henry the Sixth.

As the Barons of the Cinque Ports were obliged, by their charters, to perform certain services for the privileges granted to them, it was a part of their Chancellor's duty to receive all precepts and summonses, and to forward them to the different ports and towns, that the public business might not be neglected, nor any expedition impeded by their remissness, in not fitting out their fleet.

¹ 22 Edw. 1, c. 5.

² 20 Edw. 3, c. 9.

³ 36 Edw. 3, c. 9.

A jurisdiction gradually arose with such records, and the Chancellor of the Cinque Ports did not omit to improve it; and to keep pace with the Chancellor of England, in hearing and determining complaints.

But the Chancellor of the Cinque Ports had not only a court of equity, but, as Warden, a court of appeals; as Constable, he could hold a court martial; and as Admiral, a court for maritime affairs. This mixed jurisdiction, in a course of time, brought all the different proceedings into one court, where a deputy frequently presided, whose emoluments of office depended upon the business he could bring before him; and an interested solicitor, with such a complicated practice, had frequent opportunities of encroaching very rapidly on the judicial proceedings in the mayors courts within his jurisdiction.

The advantages to be reaped, by putting the sickle into so rich an harvest, was not overlooked, either by the Chancellors or their deputies; and the infringements which they made on the chartered rights of the Barons of the Cinque Ports, was a source of great discontent and debate between the parties, for a considerable time.

In the reign of Elizabeth, the magistrates of the different ports and towns determined to fix some bounds to the proceedings of the Chancellor, before he deprived them of every privilege which had been granted their ancestors, and confirmed to them. As public business was impeded, an adjustment was indispensably necessary; and they met on the eighteenth day of September, in the year 1574, in the church of Saint James, in Dover.

The parties were, Sir William Brook, Lord Cobham, his solicitor, and counsel; and his opponents, the Mayors, Bailiffs, and Barons of the Cinque Ports, and their counsel.

The counsel for the Chancellor produced his letters patent, and the records of the court, to prove the legality of his practice; and

the Barons exhibited their charters, and their ancient customs, to establish the jurisdiction of their several courts.

Upon opening the business, the counsel allowed, that sundry questions and controversies had arisen, at diverse times, respecting causes of equity; and of reversing erroneous judgment; and of default of justice in the mayors courts, within their respective liberties.

It was also admitted, that the Chancellor had, from time to time, held his court of equity, either by himself, or his lieutenant or learned steward, and that they had extended the jurisdiction of the court, to the great damage of the ports and their members. This charge was too well founded to be controverted; and the Chancellor was convinced, that the examining of precedents, customs, and charters, would diminish the practice of his court; and it was proposed to overlook the past, and agree upon a plan to conduct the business in future.

This proposal was assented to by the mayors, and they proceeded to draw up resolutions, to restrain any further encroachments of the Chancellors, or their learned stewards. They first resolved, that the Chancellor, or his lieutenant, or his solicitor, might hold a court of equity once in three weeks, on a Thursday, either in the parish church of Saint James, or in any other place within the liberties of the Cinque Ports, at his Lordship's pleasure; and he was to appoint his own officers. There were not to be more than three solicitors in his court, who were to reside within fifteen miles of Dover Castle.

As the mayors courts were held from fifteen days to fifteen days, by adjournment, in the regular routine of business; and in particular cases, at shorter intervals; it required that the Chancellor's court should be frequently open; or so often, that writs of prohibition and certiorari might be easily and expeditiously obtained; or judgment might pass in the mayor's courts, before a cause could be stopped or removed.

The Barons of the Cinque Ports complained very heavily of their having been put to great inconveniences, by there not being any re-

gular attendance in the equity court ; and they murmured at the expence and the trouble they so frequently experienced, by the Chancellor's removing trifling causes, which ought to have been determined by their own magistrates. They insisted that he had no authority to stop or remove any action, by plaint, indictment, or letters of process, on false or frivolous complaints ; and to prevent any further encroachments, it was settled, that every plaintiff should have his bill drawn, and engrossed, and examined, either by the Chancellor, or his learned steward ; and if they judged the court ought to have jurisdiction, one of them was to indorse the bill, or it was not to be considered as legal. The plaintiff was also to give sufficient security to the court, to indemnify the defendant in his cost, if he failed in his proof.

A copy of the bill, with the proceedings, were to be sent to the town, in which the mayor and the defendant resided ; with a summons for him to appear and plead. If the plaintiff did not answer, and finish his suit within fifteen days, the cause was to be dismissed the Chancellor's court, and sent back by a procedendo, to be finally determined by the mayor, without any further interference of the Chancellor.

After commitment, the plaintiff was not to have the writ corpus cum causa, until the bill was engrossed, and signed, as in the preceding article.

The mayor, upon receiving the pleadings, sealed up, was to deliver them to the prisoner, within eight days, or return an answer to the court of equity, why he did not. If the answer was not satisfactory, the Chancellor might enforce obedience.

In every proceeding in this court, the plaintiff, at the filing of his bill, was to produce sureties, to answer all cost and damages.

The Barons of the Cinque Ports further declared, that the King's ordinary writs had no power within their liberties ; and they insisted, that they had been illegally introduced by the Chancellor. They also declared, that he had no authority to issue any summons, or warrant, from his office, in consequence of his receiving any of the ordinary

writs from the courts at Westminster; and it was settled, that he should not repeat the practice; but in special causes, where the King or the Queen were personally concerned, or upon judgment of outlawry, or where a person had voluntarily appeared in a foreign court; it was only in such cases that prerogative writs were of force in the ports.

While the Earl of Northampton was Warden and Chancellor of the Cinque Ports, the Barons complained to him, that they had been compelled to plead, in the King's court, notwithstanding their privileges, and the agreement which had been signed by his predecessors in office. This complaint was confirmed by the testimony of many persons, and the Earl saw, that if he suffered the practice to continue, it would be not only a diminution of his power, but also of the emoluments of his court; and he determined to resist the proceedings with the whole weight of his authority.

He commanded the magistrates to have all pleas heard within their respective jurisdictions in a court under his control; and if any of the inhabitants presumed to transgress his injunctions, by bringing an action in a foreign court, they should, for every offence, be committed to Dover Castle, until they had paid to him a fine of ten pounds.

The applying for justice, where he had no jurisdiction, he considered a manifest derogation of his honor, and a contempt of his government; and a person imprisoned for such an offence, was not to be liberated without his permission. The prisoner was first to acknowledge his fault, and make the most humble concession, and find securities not to offend against his commands in future. They were to observe his orders, or risk his displeasure.

Though the magistrates had resolution in the reign of Elizabeth to oppose their Chancellor, in about thirty years, they were not only ready to surrender every privilege, but to submit to the most abject indignities, to gain a smile of approbation from their Warden.

As the time was arrived to rivet their fetters, the Chancellor had it decreed, that every magistrate, either for mal-practice, or for contempt, or for any complaint, brought into his court, should appear at the first summons, and find sureties. The punishment was to be a fine, at the will of the Chancellor; and in case of resistance, imprisonment during pleasure; and the same for any misdemeanor committed in his presence.

He graciously condescended not to imprison them for petty offences; unless they could be considered as an encroachment on his authority.

The delegates of the ports ventured to complain of the exchequer writs being directed to the Constable of Dover Castle; and they were sent from thence to the several ports, and they were obliged to return their answers to his office; and through the fault of his clerk, they were frequently fined, for not making their returns properly.

As a remedy for this evil, it was ordered, that with every return to this office, they should send a copy, to be examined and compared with the return by his clerk, who was to subscribe and return it with his name; and if he had made any alterations, the fine was to be paid by the Chancellor's clerk.

The court of brotherhood had passed several decrees, reflecting on the proceedings of the Chancellor, and his officers, for encroaching on their privileges; and to prevent them from appearing on their records, at any future period, it was decreed, that they should all be repealed.

To remove the cause of further controversies, it was determined, that if any questions of rights and privileges should arise in future, then two persons from each of their five ports, and their ancient towns, should meet his Lordship to settle the difference.

Though the parties assembled were so condescending as to give up their privileges to the Warden, they did not mean that their surrender

should descend to his successors in office; for it was decreed, that at his death, or resignation, their agreement should be void, nor should any matter or thing appear as a precedent against themselves, their heirs, or successors, to compel either of them to submit to the courts of chancery, or admiralty, beyond what they had anciently done.

It is not to be doubted, by the complaints, but that there were many frivolous and vexatious suits brought, or removed, into the court of chancery for the Cinque Ports; and as a proof of it, I shall insert an abstract of the pleadings in a cause, which is probably without an example. Though a proctor may now smile, at hearing of a bill filed in the court of chancery for the Cinque Ports, to recover a church rate; a solicitor may deem it a curiosity to see something of the practice upwards of one hundred and fifty years since, for recovering a trifling sum of a few shillings; but when they are informed, that the bill would make forty-six of our present folios, this may be thought a sufficient reason for not inserting the whole of it. But, rather than the pleadings in this court should be intirely buried in oblivion, I shall give the title and the outline of the bill, and the answer, which may enable any solicitor, of moderate abilities, to extend it to the usual length, if the proceedings should ever be revived again.

By the title, the bill was addressed to his Royal Highness James, Duke of York and Albany, Earl of Ulster, Lord High Admiral of England and Ireland, Constable of Dover Castle, and Admiral, and Chancellor of the Cinque Ports, their two ancient towns and their members.

The two orators in the bill were the churchwardens, who opened their complaint, by setting forth the description of their town, the number of the churches, and of the inhabitants in their parish, the manner of electing their minister, his particular duties, and the salary allowed him.

They next shewed, that it had been their ancient and usual custom, to raise the sums they wanted for the repairs of the church, the

maintenance of their minister, and for other purposes, upon the occupiers of houses, by an equal rate, and that they had assistant auditors, legally appointed, who were fit and proper persons, to levy, collect, and distribute the money, for the different purposes mentioned in the bill.

They next shewed the time, and the manner of their electing the Rev. Nathaniel Barry, and Samuel Hind, D.D. to be their ministers; and that they had both faithfully and diligently officiated, to the general satisfaction of the inhabitants, who did agree, at the time of their election, to allow them the annual stipend of one hundred pounds, to be paid by quarterly payments.

They averred, that the persons assessed in the schedule annexed, were householders, liable to pay the rates; and as they were just and necessary, they ought to pay them. They further averred, that the defendants knew all the premises; but, by combining and confederating among themselves, and diverse other persons unknown to the orators, they were endeavouring to frustrate their ancient and laudable custom, to prevent the good people of the parish from receiving the comfort of godly and able ministers; and though the rate had been demanded in a friendly manner, they persisted in refusing to pay it, to the discomfiture of the orators, and the parishioners.

They declared, that neither they nor their successors could have had ministers, if the rate was not paid; and they had no other church to resort to, for hearing, praying, baptizing, and burying the dead; and that they had no remedy against the confederates, in the common, ecclesiastical, or spiritual law of the nations; but only in his Highness's honourable and supreme court of the Cinque Ports, where they were accustomed to seek relief in all causes, upon a failure of justice; and therefore they prayed a subpoena, commanding them, on a certain day, to answer to their complaint in equity and good conscience.

The demurrer of the confederates to the bill of the complainants was of a moderate length, as it did not contain more than twenty folios of our modern practice.

The confederates denied the allegations they were charged with in the bill, and they demurred, saying, the bill, and the pretensions therein stated, were contrived to support an anarchical independent congregation, where old women and children might meet in the church, without the approbation of the ordinary, and elect and place a minister there, though he was neither a spiritual or a licenced preacher; which, they said, was contrary to reason, the common law, and to the ancient ecclesiastical government of the church of England, which was a dangerous precedent.

Though the complainants said the church was a donative, the confederates averred, that the matter alleged was repugnant to it; for they did not pretend to an interest, but to a power; and they asked, What are the patrons of this donative to do, if the people elect their own minister, and place him in the church?

If they plead that the inhabitants are patrons, that they should state that they are incorporated, which they have not done; and besides, a donative is an advowson, which is a freehold.

The churchwardens sue for a rate for the maintenance of a minister; yet they do not state, that they are entitled to such a suit by prescription, or charter, which they ought to have done, this being a matter essential to a churchwarden. They remarked, that the churchwardens sued for a rate to maintain Nathaniel Barry and Samuel Hind, their ministers; but they did not aver, that they were spiritual persons, and in orders. They further said, that they sued for a maintenance for Samuel Hind, who was chosen after Nathaniel Barry; and from their own bill it appeared, that Barry was living; and therefore, unless they had shewn Barry was dead, or had resigned, or was deprived, or had seceded, the court must understand, that Samuel Hind could not be the lawful minister.

But there was a very material article in their bill. They sued for a sum rated in several years, by several assessors, without naming any of them, in any one year, nor any certain sum in any year, and by

putting several years together, the defendants were precluded from taking the advantage which the law gave them of appealing, if the rates were illegal. They added, that, it is said, the churchwardens were legally chosen, but they did not say by whom; and the court was left to judge of the legality of the choice.

The complainants did not set forth any equity in their bill, to entitle the court to grant their suit; and for these, and diverse other errors and imperfections in their bill, they demanded judgment of the honorable court, whether they should be compelled to make any further answer; and they prayed to be dismissed the court.

There is no record how the Chancellor decreed upon these pleadings.

Fees of office.

	£. s. d.
For a writ of certiorari, injunction, corpus cum causa, and process, each.....	0 2 0
Solicitor's fees before joining issue.....	0 3 4
Attendance afterwards.....	0 1 0
The clerk, for copies, each sheet.....	0 0 4
The town-clerk, copies of records removed, ditto.....	0 0 4
For allowing a writ, or process.....	0 5 0
Dict, each week, for such as are of ability.....	0 10 0
To the porter at entering.....	0 2 6

CHAP. XV.

Admiral, derivation of the title. Appointed to guard particular districts. Their power. Assume authority. Remedy to check it. Their commissioners' power limited. A penalty. Criminal offenders tried by commissioners. Wrecks of the sea granted to the Barons of the Cinque Ports. The magistrates take all wrecks to themselves. Accommodate the Admiral with a part. Disputes and accommodations. New rules. Fresh encroachments. Counsel's opinion. Petition. Various new decrees.

The title of Admiral has been sought for in different languages, by antiquaries ; but Sir Henry Spelman prefered the Arabian, or the Saracenic word amira, or admirable, to any other ; and he says, it signifies a chief ruler, a prince, or a governor, through all their territories, from Spain, to the various parts of Lesser Asia.

This officer, like the *praefectus classis* of the Romans, had the command of a certain number of ships, to guard a particular part of the channel, against the depredations of piratical parties, and to protect the inhabitants on the coast.

In the sixteenth year of the reign of Edward the Second, Robert de Bello Campo, was appointed Admiral, to guard the coast north of the Thames ; and, in the following year, he had a commission to act on the westward of that river.

It does not clearly appear, that the Admiral had at first any jurisdiction, or authority to interfere in any maritime cause, prior to the reign of Edward the Second ; for Walsingham, speaking of them, says, “ They had the keeping of the seas, and full power, by the King’s commission, to invade, annoy, and spoil the French merchants.”

It may also be doubted, whether their authority, at that time, extended to the hearing of maritime causes; for those of importance seem to have been determined in the King’s court; and those of less consequence, were left to be adjusted by the sheriffs of counties, by the justices of wrecks, or by coroners; as each of them acted at different times; and by the statute¹ which passed in the reign of Edward the Third, they were accountable to the King for their conduct.

The admirals, at that time, were very far from being satisfied with their limited jurisdiction, the water; and before the end of that reign, while the King was perplexed with his continental affairs, they extended their authority over wrecks, and to the shore of the sea. They were so active in establishing this power, that in the reign of Richard the Second, they had made such unprecedented encroachments on the privileges of divers franchises, that there was a general clamour against them.

As the evils were loudly complained of, it was judged expedient to provide a remedy. It was enacted, that neither the admirals, nor their deputies, should in future interfere with any matter or thing in their sessions, which was not done upon the water; and they were to be guided by their ancient practice. When the statute passed into a law, the legislature had never attended to the foundation which the admirals had laid, for extending and raising their judicial superstructure. In the commissions granted to the admirals, prior to the reign of Richard the Second, they had given them, in general terms, all the privileges and emoluments which had been enjoyed by their predecessors; and as each of them had endeavoured to extend their jurisdiction,

¹ 27 Edward 3, c. 13.

they had deprived several lords of franchises on the coast, of considerable advantages. Privileges given, in indefinite terms, to the admirals, could not fail of interfering with the grants of the Barons of the Cinque Ports, and the free towns, and the shore of the sea ; and of course, it was a source of continual contention between them.

In about two years after passing the statute of Richard the Second, it was found necessary to limit the admirals jurisdiction ; and it was again enacted, that they should take cognizance only of offences done upon the sea, and on public creeks and rivers between the shore, and the first bridges over them. As a law, without a specific remedy, wanted energy to restrain the usurpation of the admirals, it was enacted, that ten pounds, with treble costs, might be recovered, of any transgressor of the statute, by an action upon the case. But the most offensive part of the admirals practice was still unrestrained ; which was, their trying and condemning criminals without a jury. This was considered as hostile to the English constitution, and of course obnoxious to the people. They could not bear to see a person receive sentence of death by a maritime judge, without the consent of any of their equals.

As pirates and murderers frequently escaped the hand of justice, because witnesses were beyond the sea, and sentence could not be pronounced, unless they could compel criminals to confess by torture ; it was therefore found necessary to take away this offensive practice in the admirals court ; and it was enacted, that all treasons, murders, robberies, and conspiracies, committed on the high seas, or in any river, harbour, or creek, within the admirals jurisdiction, should be tried by commissioners, appointed by the Chancellor, under the great seal.

When a commission was sent into the liberties of the Cinque Ports, for trying a criminal for a capital offence, it was addressed to the Constable of Dover Castle, or his deputy ; who, with three or four more, named in the commission, were directed to empanel a grand jury, to find the bill, and a petty jury, to try the offender ; and the admiral,

with the consent of the commissioners, was to pass sentence, according to the verdict given.

As the admiral frequently claimed the same authority as the coroners and sheriffs of counties, magistrates of gilds, and lords of baronies and manors, over wrecks of the sea, the principal part of the business, for many years, in the admiralty court, within the jurisdiction of the Cinque Ports, was the settling disputes relative to them.

The King claimed, by his prerogative, whatever was driven on shore, without any living creature upon it ; but all wrecks of the sea, on any part of the coast, within the liberties of the Barons of the Cinque Ports, were given them in some of their first charters, to assist them in raising supplies in fitting out their fleet.

They were to be wreck free, or to have their own goods, when cast on shore on any other privileged jurisdiction, without their being liable to be seized, or detained by the lord of the franchise. Richard the Second extended the grant of Edward the First, relative to wrecks, to places adjoining to the liberties of the Barons of the Cinque Ports. The words of the charter are, " and that the said Barons and good men, and their successors, shall have wrecks of the sea, at whatsoever coasts, and arms of the sea, in the ports and members aforesaid adjacent, it shall happen to be cast, and all and singular the things which belong and appertain to such wrecks. And further, that the aforesaid Barons, and good men, and their heirs and successors, and every of them, from henceforth may have whatsoever they find upon land, or sea, freely, peaceably, and quietly, without any impediment or disturbance by us or our heirs, or by the Constable of us or our heirs, within our Castle of Dover, or by the Admiral of the Cinque Ports, within the ports and members aforesaid, without any division of it to be made, or any part of it to be given to us, or any other person."

This grant clearly included flotsam, jetsam, lagan, and shares ; and the privileges were enjoyed by the Barons of the five ports, dur-

ing several reigns ; but at last innovations were made by the admirals, from time to time, under pretended claims ; and their learned stewards, upon turning over their records, found some obscure precedent, to countenance a pretence for encroaching on the privileges of the Barons of the Cinque Ports.

The demands of the admirals, at first, met with considerable opposition ; but, in the year 1525, the magistrates formed the design of taking all wrecks themselves. It was probably at the court of brotherhood, that they decreed, that wrecks of the seas should belong to the jurats of that port where they were found.

When the common barons, and good men of the ports, had yielded up their right of wrecks to their magistrates, they, in their turn, were desirous of gratifying the wish of their admiral, for a limited time, without looking forward to consequences. Henry Fitzroy, their admiral, wished to share, with the magistrates, the advantages they had gained over the common barons of each port ; and they accommodated him with one-third of the findals, as a mark of respect to the son of their Sovereign ; but it was not to descend to his successor in office. The next admiral, under his commission, claimed whatever his predecessors had enjoyed ; and this laid the foundation for frequent altercations about wrecks.

At a court of brotherhood, held at Sandwich, in the year 1570, by the delegates of the Cinque Ports, to settle disputes about wrecks, the magistrates insisted, that what they had given to the admiral, he could not demand as a matter of right ; but it was done to reconcile differences ; and they again admitted, that he might take one-third of all wrecks and findals floating, and one-half of all jetsan wrecks ; but they held fast the privilege of being wreck free themselves. Here the delegates went a step beyond their authority, in surrendering the privileges granted to others jointly with themselves ; and every concession was recorded in the admiral's court, to appear against them at a future day.

At a meeting of the delegates of the ports, held in the year 1574, to settle disputes between them and the admiral, relative to jurisdiction, as already mentioned, under the title of the court of chancery, they had discovered their error, in adopting an accommodating system; and they unanimously declared, that it had been the practice of their admirals, within their own memory, as well as in times passed, to encroach on their privileges, and they produced their charters to prove it.

The counsel for the admiral brought forward the commission, and letters patent of his lordship, and the records of the court, to shew what had been the practice in times passed; and upon this usurped claim it was agreed, that an accommodation should again take place; and the magistrates made such concessions, as soon terminated in their surrendering all claims to any part of the wrecks.

In forming the outline of a new code of rules and orders, the delegates endeavoured to guard against vexatious delays in the admiral's court, which was to be held at least four times in a year, in the parish church of Saint James, and the attorneys were to be sworn to do right.

Every offender brought within the liberties of the Cinque Ports, for offences committed on the high seas, was to be tried in the admiralty court; but where the offence was committed in any harbour, haven, or river, the person was to be tried in the mayor's court, in that port where the criminal committed the act. This privilege the Barons of the Ports claimed as their indisputable right; for it was given them by charter; to take cognizance of trespasses committed on the high sea, the shore, and the fresh water. The jury was to be of the town, in the mayor's jurisdiction, where the act was committed; and when in the admiral's, he was to have the mayor, or the magistrates of the same town, on the bench with him.

The custom of receiving and detaining of wrecks, as practiced by the feudal lords, was next taken into consideration; and the precaution which was used by each party, shews that they were not blind to their own interests. The admiral's counsel was obliged to confess, that

ships wrecked, and finds on the sea, brought within the liberties of the Cinque Ports, belonged to the Barons ; and as the admiral's claim would not bear a strict examination, it was thought prudent to accept whatever they would concede to him.

They consented that the admiral might have a share of wrecks driven on shore within their jurisdiction; and when there were no claimants, they might be divided between them and the persons who found them; but they would not yield to him any property taken up at sea, and brought within their franchise; this was to be the sole property of those who found it; and such of their own vessels goods as were wrecked, were to belong to their owners.

To prevent any frauds, each of the parties appointed a deputy, to reside in the ports and the towns on the coast, to preserve the wrecks for the benefit of the claimants.

The same distrust they had of each other, they entertained of the inhabitants; and they mutually agreed, that if their officers should detect any of them concealing wreck goods, they should not only forfeit their moiety, but they should pay the real value of them, either to the admiral, or the mayor of the town, in whose jurisdiction the goods were found.

To prevent the admiral from taking any advantage of the person who found the wrecked goods, it was settled, that they should not be removed by his officers out of the limits, until a division was made, and the moiety secured to those who found the property.

If a vessel was driven on shore, with any living animal on board, and it could not be deemed a wreck, it was settled, that the property should be in the custody of the admiral, for the benefit of the claimants; but he was to pay those who found it their proper shares, and to indemnify the town against the demands of the owners, if any appeared. All this precaution shews, that the magistrates had but little confidence in the justice and moderation of their admiral; for they stipulated, that he should not imprison any of the inhabitants, upon

information of having found wreck goods, nor until they were fully convicted of it in open court.

These concessions laid the foundation for encroachments to succeed encroachments, while they had a privilege left worth preserving.

The admiral, as coroner, claimed to have jurisdiction, and to hear and determine all offences within the bays and harbours, unto high water mark, within the franchises of the Cinque Ports; and this business was, by the magistrates, referred to counsel, in the year 1606, and they received the following answers.

All that is within low water mark is a part of the county, and not altum mare; and therefore, neither the admiral nor his officer have any power within low water mark.

Question.—Whether the admiral has jurisdiction, as coroner, when it is full sea, within the havens, piers, and creeks, when the land is at both sides; and whether he can claim any deodand, or felons goods, there happening at that time?

Answer.—The port, creek, or haven, is a parcel of the county, wherein the admiral, as admiral, can have no jurisdiction. If it was parcel of the county, when it was not full sea, then it follows, that it must be so when full sea.

Question.—Whether the admiral has authority to inquire of Oyer, or to determine any matter against any penal statute, as transporting goods prohibited, or such like offences?

Answer.—The Admiral may not inquire of Oyer, or determine any thing done or committed against any penal law, unless it be so provided by the penal statute itself.

Question.—Whether the admiral may make inquiry in any one port, by the inhabitants of the same port, where the inquiry is with the inhabitants of any other port?

Answer.—The inhabitants of one port are not compellable to attend to an inquiry in another port, where they dwell not.

Thomas Harris.

The words are so, and cannot receive any other exposition.

R. Hutton.

After the Barons of the Cinque Ports had murmured under an arbitrary system for more than half a century, the mayor, jurats, and commonalty of the town of Sandwich, in the year 1629, ventured to offer an humble petition to their admiral, complaining, that the liberties of their ports and their members had been infringed, contrary to their ancient usages and customs, which had tended to the impoverishment and depopulation of their town. They said, that in their charters, they had power to hold pleas of all actions, real, personal, and mixed, in their courts of record; yet, upon slight and frivolous pretences, even after judgment was given, writs of injunction and certiorari were granted, either to stop, or remove the suit to Dover, contrary to all ancient practice; by which poor people were compelled to lose the benefit of judgment, and compound their cause, rather than submit to the expence, and the trouble of journies to Dover.

Exclusive of the unwarrantable practice of the chancery court, the admiralty court exercised ordinary jurisdiction over matters arising on the sand, the sea, and shore above high water mark post reflexum maris, and within the havens, piers, and creeks, and upon fresh water, where the sea never flowed, contrary to their charters, and the law of the land.

That they had questioned, and caused certain kidle grounds to be presented, which were private men's inheritance; for which they could shew ancient evidence, that they had bought and sold them as other lands.

That the admiralty court had frequently fined and amerced the ports men, and admitting them lawfully imposed, yet the fines belonged to the ports in which the offenders lived.

They further said, that wrecks and findals did belong to them by charter; and though it was agreed between them what share the admiral might take, yet his officers would take the whole, and ill treat the finders of them, and not allow them their proper shares; but harass them to Dover, to question them about the quantity of goods wrecked; and that they issued their writs to all mayors, bailiffs, and jurats, commanding them to aid and assist the sergeants of the admiralty court, or their deputies; all which proceedings were contrary to their charters.

That the said court did compel ports men, contrary to their privileges; and that the officers of the admiralty exacted greater fees than they had been accustomed to do in former times.

That the bonds which they required, every second year, of all masters of ships, barks, and vessels, and of innholders, victuallers, and hackneymen, are new charges in the port.

That the mayors and bailiffs have always been joined in the commission, in the viewing of arms, and in taking of musters, until very lately; and gunners, and other officers of the castles, who used to be impleaded, and punished for offences in the ports, challenged an exemption, and it had been granted them.

That writs, addressed to his lordship, for any of the inhabitants of the ports not incorporated, were used to be sent with letters of attendance to the mayor and jurats of the head port, for them to order the execution of the said writ; but now they are sent immediately to the deputy, and not to the mayors, to the derogation of the liberties and privileges of the head ports.

That the Lieutenant Governor of Dover Castle has sent warrants for some of the inhabitants to appear before him, and has committed them for a breach of the peace, and other misdemeanors, when there was no suit judicially depending before him; by which they were rose to heavy charges, when the inquiry belonged to the mayor and jurats, and not to the admiral, or his deputy.

This petition shews, that the admiral, and his learned steward, had contrived to increase the emoluments of office, by extending an arbitrary stretch of power, to the utmost limits of their jurisdiction; and the magistrates of the town of Sandwich had public virtue sufficient to enable them to point it out to his lordship; but it was the last ineffectual effort, which was made in the ports to check his usurpation.

Private interest had supplanted every other consideration in their leading men, and they were found by the admiral, and his learned steward, fit instruments for their purpose; and they very soon prepared them to expedite, and finish the plan, which they had for some time been forming.

A new code of laws soon appeared, but without date, to prevent any further trouble with claims of rights and privileges; and some of the sections of it would have disgraced a Goth, or a Vandal, in the rudest times of a dark and a barbarous age; but it was received, as far as we know, without any opposition; although it imposed the most abject and horrid punishment on the delegates of the Cinque Ports, who were members of the admiralty court, which could have been invented by any of the uncivilized tribes of the desert or the forest.

As the presenting petitions might keep in remembrance old claims, and the mentioning the proceedings in the admiralty court might excite the Barons of the Cinque Ports to oppose them; the learned steward gave it in charge, that if any magistrate, after having been sworn to take inquisition in the admiralty court in any cause, should declare any secret, he should be had to the next port, where his offence should be proclaimed, and from thence he should be conducted to the sea shore, where the sea ebbed and flowed, and there he should be bound hand and foot to a stake, and have his throat cut, and his tongue drawn out of his mouth through the wound. This was a most effectual method to command silence, and secure secrecy; and to insure the emoluments of office, without any further interruption.

It was then decreed, that if any person found flotsam, jetsam, or lagan goods, within the jurisdiction of the Cinque Ports, and the owners of them should not be known, the admiral would then have a moiety of them to his own share; and if the part laid out for him did not prove satisfactory, the person who found the goods, should not only forfeit his own share, but the value of it.

This was leaving the finder of the property entirely at the mercy of the admiral, whose avarice might covet the whole; and he might fine the person for keeping any part of it for himself.

By the aid of a little superstition, the admiral claimed a right to dispose of all money, jewels, and apparel, found on a dead body, for the good of the soul, whether the carcase was found floating, or cast on shore; and for fear it should not receive all the advantage of his kind intentions, the finder was to be punished, with fine and imprisonment, for withholding any part, and for frustrating his pious design.

But a moiety of the wrecks was soon found insufficient to satisfy the admiral; and he next demanded the greatest part; and it was made an order of court, that if a person, within the jurisdiction, should find either a ship, or a boat, or any wreck, driving with the tide, and not deliver it into the custody of his officers, within a day and a half, he was to pay the value of the whole wreck, and be fined at the pleasure of the admiral; who was then to take his share, which was to be the greatest part, or what he required.

As claiming and dividing wreck goods was found troublesome, it was next decreed, that if any person should claim, and not be able to prove his right, he should be fined double the value of the property for his presumption. All piratical goods, brought within the liberties of the Cinque Ports, should be kept under the custody of the admiral; and if they were not claimed in a proper time, they were to be condemned by the court, and shared between the admiral and the port in which they had been stored.

That his fiat might be absolute, it was declared rebellion to resist him in his judicial capacity; but the refusing to serve the King, was only imprisonment in irons, until the offender had paid a fine, at the discretion of the court.

It was declared death to steal nets, ropes, buoys, and cordage, to the value of twenty-pence; and it was the same for furnishing the enemies of the King with provisions or arms. For stealing property under the value of twenty-pence; the first offence, forty days imprisonment; for the second, two months; and for the third, death.

For exporting lead, tin, copper, or any other merchandize, without special licence from the admiral, the forfeiture was the value of the goods; and, for wilfully taking on board a felon, or an outlaw, or any of their property, the vessel was forfeited to the admiral.

If a mariner, by negligence, lost a ship, he was to make satisfaction to the owners, or to have his head struck off on the side of the boat. For murdering or robbing either a British subject, or a foreigner, on the sea, or the sea shore, within the liberties of the Cinque Ports, was to be punished with death, at the will of the admiral.

For cutting a buoy from an anchor, and causing any vessel to be wrecked, death.

For hiring a foreign servant, when they might have had an English one; and for receiving, concealing, and keeping, any goods, belonging to the admiral, fine and imprisonment, at his pleasure.

For hurting or maiming a man in an affray, the aggressor was to recompense the injured person, and pay a fine of five pounds to the admiral; or suffer imprisonment at his will.

For taking more than the accustomed due, for the anchoring of a ship, to pay a fine, at the pleasure of the admiral.

For casting out ballast, and damaging any haven or channel, within the liberties of the Cinque Ports, was a discretionary fine to the admiral.

If a shipwright exacted more than his lawful wages, he was fined at discretion.

If an inhabitant of the Cinque Ports was impressed, and he resisted, or made his escape, he was to be kept in prison during the admiral's pleasure.

For building a mill on a stream, or any flat-water, which did any prejudice to a harbour, or haven, the owner was to pay an arbitrary fine to the admiral, and take down the mill.

For taking oysters or muscles, between the first day of May, and the fourteenth day of September; and for catching the young fry of fish with improper nets, the offenders were to pay a discretionary fine.

For catching soles and plaice with nets, with meshes less than five inches; and for fishing for them before the fifteenth day of May, and after the first day of November; for every time they offended, they were to pay a fine of forty shillings.

For fishing after the setting of the sun, and before its rising, and not suffering the fish to enjoy their food quietly, they were to forfeit all the fish they caught; and the same for fishing with a tuck net, marvel net, or shot net, with meshes less than three inches.

For taking any royal fish, such as whales or porpoises, and not giving the admiral half, they were to forfeit the whole.

If the inhabitants of the Cinque Ports impleaded each other in any court, excepting the admiral's, they were to withdraw their suit at their own cost, to satisfy the defendant, and to pay a heavy fine for their presumption.

To prevent the magistrates of the different towns from opposing this arbitrary system of ignorance, absurdity, and tyranny, it was declared, either by the admiral or his learned steward, that they who offended, should suffer six months imprisonment, for passing any order, which might not be generally beneficial to all the ports.

It is difficult to say, when this mass of oppression was first framed; but it may be supposed, that it was after the petition was presented

from Sandwich, claiming privileges from customs and charters ; and it was found expedient to suppress all claims, before the court could establish this system of tyranny.

The decrees speak for themselves, and they point out the intentions of the framers of them. They want no comment ; but I will mention one instance of the ignorance of the admirals, and their learned stewards.

In the laws of Oleron it is said, " that if a merchant sustains damage, by the ignorance of the pilot, by his not knowing how to conduct a ship into Saint Maloes, or any other port, he shall make satisfaction, or lose his head ;" but the owner of the vessel was to be sure, that he had not property to answer the loss, before he cut it off ; but, in the code of laws adopted in the admiralty court of the Cinque Ports, the pilot was to pay the damage, and lose his head.

Act 48th Geo. 3, clause 20—It is enacted as follows ; " And whereas doubts have arisen, as to the exact boundaries of the jurisdiction of the Lord High Admiral, and the Lord Warden of the Cinque Ports ; and it is highly expedient, for the purposes of this act, that the same should be clearly set forth : now it is hereby declared and enacted, that the boundaries of the jurisdiction of the Lord Warden of the Cinque Ports, in regard to any matter or thing contained in this act, shall be, and shall be deemed and taken to be, as follows, that is to say ; from a point to the westward of Seaford, in the county of Sussex, called Red Cliff, including the same ; thence passing in a line, one mile without the sand or shoal called, the Horse of Willingdon, and continuing the same distance, without the Ridge and new shoals, and thence in a line within five miles of Cape Crisries, (Cape Grisnez) on the coast of France ; thence round the shoal called the Overfalls, two miles distant from the same, thence in a line without, and the same distance along the eastern side of the Galloper sand, until the north end thereof bears west-north-west, true bearing ; from the west-north-west bearing of the Galloper, it runs, in a direct line,

across the shoal called the Thwart Middle, till it reaches the shore underneath the Mase Tower; from thence, following the line of the shore, up to Saint Osyth, in the county of Essex; and following the shore, up to the river Coln, to the landing place nearest Brightlinsea; from thence, in a direct line, to the Shoe Beacon; from thence to the point of Shellness, on the Isle of Shippey, and from thence, across the waters, to Faversham; and from thence, following the line of the coast, round the North and South Forelands, and Beachy Head, till it reaches the said Red Cliff; including all the waters, creeks, and havens, comprehended between them. Provided always, and it is hereby declared, that nothing in this act contained, shall extend, or be construed to extend, to enlarge or abridge, the local limits of the ancient jurisdiction, rights, and privileges, of the Lord High Admiral of England, or the Lord Warden or Admiral of the Cinque Ports respectively, or their respective representatives; but that the same shall remain according to ancient usage; and that the description herein before contained, shall only be deemed applicable to the purposes of this act, any thing herein before contained to the contrary notwithstanding."

CHAP. XVI.

The court of Lodemanage. Its origin. Title. Laws, and judicial proceedings.

The court of Lodemanage may be considered as a branch of the admiralty court for the Cinque Ports; and the admiral anciently presided at it; and it was held under his authority, after it was separated from the parent stock. The jurisdiction of the court was at first confined to the regulating of the hire for the piloting of ships; and the wages of the pilots were named the lodemanage, from their managing and guiding the vessel.

The members of this society were called lodesmen, and joostsmen, and leadmen, from the Belgic word loot, which signifies lead; and they were also called pail lootes, or men, who measured the depth of the water, over shoals in the narrow seas, by heaving the lead. They were distinguished by their name, from those who navigated ships in the open ocean; and they acquired their knowledge of bays, and the entrance into harbours, by sounding, and remarking how much water there would be, at any given time, both during the flowing and the ebbing of the tide. They were also capable of conducting ships clear of sand banks, between Dover and the rivers Thames and Medway; and to the ports of Flanders, Holland, and the East country.

A few ancient mariners had formed themselves into a society, for conducting ships to the abovesaid ports, and rivers, before they had

received any delegated authority from the admiral; but the rules and orders, by which they regulated their proceedings, are unknown to us.

While a small number of ships were sufficient to convey our commerce to the capital, there was but little inducement for competitors to disturb the peace of this infant society, to partake of their profits; but time, which had been gradually producing innovations, made it necessary, in the reign of Henry the Eighth, for the pilots to frame laws, to regulate their society, and secure their interest.

In tracing the proceedings of this fellowship, step by step, through their long annals of nearly three centuries, we shall be able to discover, how dangerous it is, to suffer a few interested individuals to exercise unlimited power; and more especially, when their emoluments of office chiefly depend upon unwarrantable practices.

The first rules and orders upon record, for regulating the turns of the lodesmen, and for there being officers appointed to see them executed, were dated the twenty-sixth day of February, in the eighteenth year of the reign of Henry the Eighth.

The court of admiralty had, prior to that time, been frequently troubled with the trifling and contentious disputes of the lodesmen, respecting their turns, and their hire for piloting of ships to their respective ports; and as this business did not require any knowledge of the maritime laws, Sir Edward Guildford, Admiral of the Cinque Ports, judged it would be necessary to have four respectable mariners, to settle petty differences, and to keep good orders in the society. They were to be called wardens, and to be elected from time to time; and their duty was to see, that all those who were admitted into their society, should obey their rules.

Though the power of the wardens was very much limited at first, yet time, and a coincidence of circumstances, soon placed them on the seat of authority. As commerce increased, the business of the

* Appendix, class i., fig. 1.

lodesmen became more lucrative; and as gain is often followed by contentious competitions, the admiral was frequently applied to for new laws, to secure their profits.

The wardens found, by experience, that it would be very difficult to restrain the lodesmen from interfering with each others turns, and they prevailed with the admiral to enact, that every aggressor of their rules should pay four-pence, as a fine, for every turn which was unjustly taken; and the money was to be employed in repairing public works. As this sum was not to be applied to any private purpose, it was probably only intended to awe the refractory mariners, and to punish those who would not obey their rules. But experience soon taught them, that, under the sanction of the Admiral, they might extend their authority, and increase their emoluments; and this encouraged them to attempt a new enterprize.

The Dutch had been accustomed to send vessels, with lodesmen, to wait within the liberties of the Cinque Ports, to take charge of ships returning, from various parts of the world, to their different ports on the coast of Flanders, Holland, and the East country. This was considered very prejudicial to the interest of the society; and to prevent the practice in future, it was decreed, that every foreign vessel, anchoring near the shore, between Margate and Rye, should depart out of their liberties, after receiving notice, either from a lodesman or a King's officer, as soon as the wind and the tide would permit; without waiting to take charge of any merchant ship, bound to the continent, under the penalty of paying such a fine, as would render any delay an unprofitable voyage to the owner of the vessel.

This order was evidently intended to secure the piloting of foreign ships to the members of this society; and it appears to have been founded on an interested motive; while it was injuring the traffick of

* Appendix, class i, fig. 2, 3, 4, 5, 6, 7.

* Appendix, class ii. fig. 1.

the inhabitants in the different towns on the coast. If they acted from the patriotic principle of keeping foreigners ignorant of the entrance into the bays and harbours within their jurisdiction, their policy was commendable; but no hasty conclusion can be drawn from a solitary act of doubtful disinterestedness.

* Prior to the year 1550, there was a change made in the application of the fines; and it was at a time when the mill, which belonged to the Monks of Saint Martin's priory, was in a ruinous state, and their poverty was so great, that they could not repair it, and necessity compelled them to take it down. This was the reason of their transferring the fines from the mill to the harbour.

* The next order plainly shews, that a narrow selfish policy was beginning to influence the wardens; and that neither the preservation of the ships, nor the expedition of the passage to the Thames and the Medway, were to stand in competition, against securing the turns of the lodesmen, when they were ready and willing to take them.

* In this early and infant state of the society, the magistrates of the town obtained an order of court, to secure the wardenship to such of them as were well qualified to take it; and the admiral's seal was prefixed to their order.

It was about the year 1550, the lodesmen were first divided into two classes; and ships, of a certain tonnage, were assigned to each. There were five lodesmen for large ships, and eight for small ones; and twelve more were added, to take charge of the least vessels.

* The wardens, with the approbation of the admiral, in the year 1564, ordered, that the fines for taking away turns, should be applied, in equal moieties, to the members of the court, and the complaining person. This was first settled at Deal; and they very soon adopted it at Dover.

¹ Appendix, class ii, fig. 1.

² Appendix, class ii, fig. 2.

³ Appendix, class ii, fig. 3.

⁴ Appendix, class iii, fig. 1.

This disposition of the fines was offering a reward for the litigious to apply to the court; and was a kind of bribe to influence the judgment of those who were to hear and determine on the complaint.

' In the course of thirty years, several orders were passed, to secure the interest of the lodesmen, and preserve order in the society; and heavy fines, and imprisonment, during the pleasure of their president, were to be inflicted for their disobedience.

There appears to have been some difference between the fines at Deal and Dover, for a certain time; but they were both agreed in increasing them; and in punishing with rigour, every one who presumed to break their laws.

When imprisonment was inflicted at the will of the lieutenant governor of the Castle, who was authorised by the admiral to hold a court of lodemanage, in his absence, time had cast its sable mantle over the origin of this society; and the power which the wardens had assumed, could not be doubted, or controverted, by a few detached, industrious, but uninformed fishermen and mariners.

Experience had now taught the officers of the court of lodemanage, that their admirals were too high in rank to trouble themselves with the business of regulating the affairs of the lodesmen; and that they were as ignorant, as they were indifferent, about the authority which their predecessors had given to their deputies, as well as the power which they exercised over those under them; and they concluded, that the hour was arrived, to look forward to the advantages which might be gleaned in their situation.

As the authority of the court was so far established, as to commit, and hold in prison, without fear of any inquiry; the next step was to increase and multiply fines; and the magistrates of the town were allured by this prospect; for they saw, that if they enlisted under the

* Appendix, class iii, fig. 3 to 10.

President, and obtained the offices of master and wardens, they might enjoy both the title and the profits.¹

About the year 1595, Mr. Bennett was chosen master; but, as he was absent in the service of the Prince, the mayor was appointed his deputy; and he took the same oath the master would have done, if present; but it was not recorded.

The master had a small salary allowed him, about this time, to pay his expences. The very frequent additions and alterations, in the laws of this society, may lead us to conclude, that the lodesmen were refractory, and not easily governed; and the exorbitant fines, and the severity of their punishments, as clearly shew the arbitrary proceedings of the officers, whose original delegated authority extended no further, than settling a dispute between the lodesmen, or between them and their employers.

In the beginning of the seventeenth century, the oath, which was taken by the master, was first recorded.

The master's oath.—You shall swear, that you will have true faith to our Sovereign Lord the King; that as master of the Trinity-house, at Dover, you will, as near as God shall give you grace, perfectly fulfil, and keep, all orders and institutions, formerly used, and to be performed, by the master of the said house; and that you will execute the duty of this your office, without partiality or affection.

The warden's oath.—You, and every of you, shall swear true faith unto our Sovereign Lord the King; that you and every of you, from time to time, during the present year's wardenship, be assistant unto the master of the Trinity-house, in all things concerning his office.

It was also decreed, that either the master, or his deputy, should be always present, that there might be one of them to enforce obedience to the laws.

¹ Appendix, class iii, iv, v.

² Appendix, class iv, fig. 1.

At the time of passing this decree, they had very probably received intimation of the change which was about to take place in conducting the business of Dover Harbour; and they might think of turning it to their own advantage.

James the First, in the third year of his reign, demanded of the corporation a surrender of their claim to the harbour; with an account of all rents and droits which they had received; and what right and title they had to them.

This surrender was made in the year 1604; and within two years, the King granted them, by charter, to the Warden of the Cinque Ports, and several gentlemen, of which the Lieutenant Governor of Dover Castle was one, by virtue of his office.

The president of their court having obtained this appointment, they determined immediately to put the sickle into a richer harvest, and to gather something from every mariner sailing out of the port of Dover, or any place within its jurisdiction. The master of the vessel was to collect the tax, and to be answerable for all his men, under a sufficient penalty, to secure the court from any loss, which might be occasioned by his neglect; for they were to levy all deficiencies on his goods and chattels; and he was to suffer imprisonment during the pleasure of the president of their court.

As the knight did not blush, either in lending his name, or in exerting his power, to wrest the hard earned penny from the labour of the lowest part of the community, it may be presumed, that corruption presided on the bench in the court of Iodemanage; but whether the members of it shared their extortions, in proportion to their authority, is a question which no record of that time will determine.

As the duties of the inferior offices of the court continued to increase, with their prospects of new fines, it was judged necessary to bind them more closely by a new oath.

* Appendix, class vi, fig. 1.

The master, at the entering on his office, was to swear, to be obedient to the King's Constable of Dover Castle, to the Warden, and Admiral of the Cinque Ports, to the Lieutenant and Deputy Lieutenant of the Castle, for the time being; and as master of the Trinity-house, at Dover, he was to fulfil and keep all orders and decrees, formerly made, and hereafter to be made, and which, by the master of the Trinity-house, ought to be kept and performed. He was also diligently to execute, according to his skill, the duties of his office, without affection, partiality, or malice, as near as God would give him grace.

The oath of the wardens was similar to that of the masters.

The plan which had been adopted by the court, and established by Sir Thomas Fans, in raising new contributions on the mariners, and a tax upon goods, which were first recorded in his time, and said to be according to former rules, was a method of establishing a custom, which was not lost sight of by his successors; for their ruling principle was, for many years, to extend the jurisdiction of the court, and increase the emoluments of office.

As there was evidently a combination of power and interest plotting against the rights of the mariners, and masters of vessels, who were too much detached, to unite and support a common cause; they had no other remedy, but to submit to the arbitrary mandates of an imperious court.

The taxes which were imposed, were exacted with rigour, by the master, and wardens, who were but little more than agents, to execute the commands of their president; and they probably shared some part of the spoil. But while they were making such rapid strides on the natural and civil rights of the inhabitants, and levying taxes upon them, an event, as sudden as it was unexpected, was likely to blast all their hopes.

Edward Lord Zouch, Warden, and Admiral of the Cinque Ports, being at Shepway, in the year 1616; and hearing of the murmurings

and discontents of the inhabitants of Dover, groaning under the oppression of an arbitrary court, within his jurisdiction, and immediately under his controul, he issued a commission, signed with his own hand, and to which he affixed his seal, empowering the lieutenant governor of Dover Castle, the mayor of the town, the master and wardens of the fellowship, and several other persons, to hold a court, for the purpose of settling the business relative to the lodemanage of ships. This was all the authority they received from the admiral.

His lordship considered this step as an effectual remedy, for preventing the extorting of money, in his name, as admiral of the Cinque Ports; but he soon found, that old habits, like an inveterate disease, required strong measures to effect a cure.

On his return to Shepway, the following year, he still heard complaints of several existing abuses, which were a disgrace to the court; and he resolved, that if he could not place it upon a respectable basis, he would resign his office as admiral of the Cinque Ports; and this he considered as an effectual step, to prevent them from oppressing the inhabitants, under any pretended authority derived from him. His lordship assured them, that as he had not determined upon any plan, for holding a court of lodemanage, he was therefore ready to hear their proposals, and to adopt whatever might appear most conducive to the general good of the whole community, over which he presided.

As the officers of the court of lodemanage were totally unprepared to give any answer, he asked them, whether it was necessary to have any Trinity-house within the liberties of the Cinque Ports? or whether the society of lodesmen ought not to be placed under the corporation of the brethren of the Trinity-house, at Deptford? He assured them, that he was ready to resign his authority, to promote the general good of the inhabitants, under his jurisdiction.

If they were desirous of having a court of their own, and they were unanimous in their opinions of the advantage of it, he was ready to grant their request; but he would not prefer one of the towns to

another; for he was determined to hold the court in any of the ports, or their towns, at his pleasure. He said, that in his jurisdiction, every port should enjoy the same privileges; and he requested, that they would send him a certain number of masters of vessels, from Sandwich, Deal, Dover, and the other ports, that he might admit as many of them into the society, as should be deemed necessary for the service.

He ordered, that six mariners from Dover, four from Sandwich, and two from Deal, should first be admitted, and form a jury, to examine, and recommend, out of the whole body, proper persons for officers, who were to be approved of by the admiral; and until this could be done, they were to proceed under the directions of the old court.

The jury were to meet on Tuesday, the thirtieth day of September, to receive their charge; and they were to be allowed proper time, to make their returns to his lordship.

The parties met at the time appointed; but they came prejudiced against any new plan, and jealous of each other. The delegates from Sandwich said, that they could take charge of ships under their own government; but as their town was embayed, and at some distance from the course of the ships, it would be inconvenient for them to be put on board; therefore they should decline being admitted into the society. The deputies from Deal peremptorily refused, without assigning any reason, and the meeting was adjourned until the thirteenth of October, as they could not procure a jury to proceed to business. They met again on the day appointed; and there were present, the master and the wardens of the fellowship; sixteen masters of vessels, of the town of Dover, and Nicholas Eaton, the mayor; three from Sandwich, and nine from Deal; all qualified to undertake the piloting of ships into the Thames and the Medway. The admiral's proposals were again read to them; and they then being convinced of his good intentions of making them into one body, they were admitted into the so-

ciety. As the residence of their president was at Dover Castle, and the admiral's court was held in the parish church of Saint James, in Dover, which was the most central place for the ports, and their towns, it was settled, that this reformed court of lodemanage should be held there.

This union of the several parties being approved of by his lordship, he gave directions, that the commission should be renewed for holding the court; and the names of the mayors, the common clerks, and two magistrates, for each of the ports of Dover and Sandwich, should be inserted in it. They were to meet again on the nineteenth day of March, and the following list of persons were returned to the admiral, to be on the jury.

OF DOVER.

Robert Foster.
James Spokes.
John Woodgreen.
Christopher Bulger.
Thomas Tiddeman.

OF SANDWICH.

Thomas Waterford.
Thomas Hogge,
Thomas Barber.

OF DEAL.

Daniel Wyborne.
Samuel Croydon.
Edmund West.

Several persons from Sandwich and Deal, were received into the society; and they were to admit others, if they were desirous of being admitted, and were found, upon examination, to be qualified; and a new oath was taken upon their admission.

*The oath.—*You A. B. as one of the fellowship of the court of lodemanage, within the liberties of the Cinque Ports and their members, shall, from henceforth, well and truly obey, keep, and observe, all the customs, decrees, orders, rules, and ordinances, of lodemanage, within the said Cinque Ports and their members, as were of ancient time and heretofore made, by the Lord Warden of the said ports, or by the commissioners appointed for the time being, for the government of the said court of lodemanage; and if you shall know, at any time, of the said society's breaking or violating any of the decrees, orders, rules, or ordinances, you shall make the same known to

the Lord Warden of the Cinque Ports, or to his deputy, or to the commissioners, or the master and wardens of the fellowship, or to some one of them, at or before the next court, to be holden after the offence committed... You shall also be obedient to the Lord Warden, his lieutenant, the commissioners, and the master and wardens of the fellowship, in all things touching the government of the said lodemanage, and the maintenance of the same. So help, &c.

The oath taken by the jury.—You shall well and diligently inquire, and make true representation, of all offences, and breaches of the customs, deorees, rules, orders, and ordinances, concerning the lodemanage within the Cinque Ports, and their members, committed and done, by any person or persons, and of all other articles and things, which shall be given you in charge concerning the same. You shall not present any thing for hatred or malice, nor conceal any thing for favor or affection; but in all things you shall present the truth, according to your knowledge, on such evidence as shall be given you. So help, &c.

It appears, from the preceding oaths, that the members of this court begun, by engraving their old practice into the intended reformed plan; as they were to proceed and determine by their ancient decrees and laws, which had been found so oppressive to the inhabitants of the town of Dover.

Lord Zouch certainly designed, that his plan of reformation should be continued after his removal from office; but his laudable intentions were frustrated, by the artful policy of the old members of the court.

About the year 1618, George Villiers, Duke of Buckingham, succeeded to the office of admiral, which he accepted as a place of honor and profit, and not of duty. He was too high in rank to attend to the proceedings of the court of lodemanage, and all complaints made to him, were referred to the subordinate officers. Under an admiral,

who left the duties of his office to those, whose interest it was to make the most of their situation, they watched their opportunity to raise again the hand of oppression ; and the inhabitants of the towns, within the jurisdiction of the court, soon felt the effects of unrestrained power.

The officers of the court of lodeinage had, by a former law, levied a tax on the mariners, sailing out of the harbours and bays within their jurisdiction ; and they next decreed, to tax the vessels according to their tonnage,* and the merchant for his merchandize, shipped in the port, if he was not of the town ; and twenty-three men were appointed, with the exclusive privilege of conducting ships, both in and out of the harbour. It was ordered, that the tax should be paid according to ancient custom, though it was the first time of imposing it.

There were more instances than one, in the proceedings of the court of lodeinage, which clearly point out, how bodies of men have claimed a prescriptive right, upon no better foundation, than the wilful misrepresentations in their own records.

It may be said in favor of the last decree, that it prevented drunken and ignorant persons, from hazarding the property of the merchant ; but, at the same time, it restrained all competition in the hour of danger, and it was a most effectual remedy of securing all the business to themselves and their friends. During the time that — Hippersley was Lieutenant Governor of the Castle, the court interfered in fixing the price of freight, settling the sailors wages, and deciding upon every cause which they could deem maritime. Though the determinations of the court were submitted to, under the dread of imprisonment, during the pleasure of an arbitrary judge, they were found too heavy to bear without murmuring, and they finally produced conten-

* Appendix, class vi, fig. 1.

** Appendix, fig. 2, 3.

tions and quarrels, between the mariners of the town, and the officers of the court.

One party seemed resolved to resist the payment of the taxes, which were called ancient, but were really modern ; and the other was determined to enforce them ; and while their dispute was pending, all public business was impeded. Passengers were detained on their journey to the continent, and the merchants were injured, by stopping their goods ; for the officers of the court insisted, that no vessel should sail out of its town, under the penalty of paying a very heavy fine ; and many of the masters of passage vessels refused to submit to their orders.

A letter was signed by several masters and owners of vessels, and sent to the admiral, requesting that they might chuse their lodes-men. This letter was returned, and read before the court, in September, in the year 1609, and their request was granted.

In the year 1622, several mariners, and inhabitants, of the town of Sandwich, sent a memorial to the admiral of the Cinque Ports, complaining of divers Flemings, coming daily into their haven, and taking away their trade ; and those who had settled in the town, were become masters of vessels, and they would not employ any but their own countrymen. To strengthen what they had advanced, they affirmed, that Isaac Oliver, of Sandwich, entered his vessel at the custom-house, upon the promise of a freight from the merchants ; but, upon the arrival of the vessel belonging to Isaac Bickerstow, a Dutchman, they disappointed him.

The admiral referred this complaint to the court, and desired, that they would inquire into the matter, and make some good orders to be observed, and send the result of their deliberations to him. When the court inquired into this business, Oliver seemed deficient in proof ; but to prevent any further complaints to the admiral, they ordered the

* Appendix, vol. vii, sig. A 0:

mayor, and such of the commissioners as resided at Sandwich, to make such regulations as might be judged necessary, and transmit them either to the admiral, or to the court.

Though the tax, imposed in the year 1606, was deemed reasonable by the court, yet the mariners, in the year 1618, disapproved of it both upon the men and the vessels; nor could the commissioners of the court of Iodemanage, ever compel them to pay the taxes quietly, even with the threats of levying them on their goods and chattels, and committing them to prison, during the pleasure of their president. In less than six years, they found it necessary to propose a conference with the masters of vessels, to accommodate matters between them.

At a general meeting in July, in the year 1624, it was acknowledged, that divers disturbances and quarrels had arisen, between the masters of barks and cargoes, employed in transporting passengers, horses, goods, and merchandize, to Calais, Boulogne, Dieppe, and other ports, on the continent; and the commissioners of the court of Iodemanage, had impeded the business of the merchants; and it was necessary to adopt some plan, to prevent the like in future.

By the commissioners wishing a conference with the masters of vessels, it shews, that they were apprehensive of being called to account for their exactions, if any complaint should be made against them. They therefore wished to advise the owners and masters of vessels, to assent to a plan, to expedite business, and promote harmony between them. They desired to make them a party to the order they intended to propose, and to get as many as they could to sign it.

This meeting was well attended, for there were forty-six masters and owners of vessels; and, if we may depend upon the record of the court, they agreed to an enrolment, and to sail in their turns; and

* Appendix, class viii, fig. 1.

the decree was to be perpetual and binding on all parties. A long list of the names of the masters and owners of vessels, was entered on the roll,¹ and new laws were enacted to secure their obedience; but after every precaution of the court, in appointing a clerk to acquaint them with their turns, and to fix their price for the voyage, and to prevent any complaints being made to the admiral; in a few weeks, twenty-seven of the enroled masters were dismissed from what was called the protection of the court. Several others were confined for a breach of orders,² and attachments were issued, to compel the payment of the fines.

In this perplexed state of affairs, when the power of the commissioners of the court was questioned, and when their authority was resolutely opposed, they made an order,³ that the court should be holden on four stated days in a year, to prevent the trouble of special summonses; and that any member of the fellowship, as did not attend, should be fined at the pleasure of the president;⁴ unless he was prevented from attending by unavoidable necessity.

As the foreign ships, trading to the port of Dover, had not contributed any thing to the fund of the society, they were all laid under contribution, if they entered the harbour; and to prevent them from evading the tax in calm weather, by riding, for the space of one tide, by a rope made fast to the pier head, after notice being given, they were to pay more than for sailing into the harbour; and for taking any freight on board, they were to pay five shillings.

¹ All these taxes were exacted with rigour. A fine of five shillings was levied for heating pitch on board a vessel; and two persons were fined ten pounds each, for taking away a turn to Calais, and the money paid.

² Appendix, class viii, fig. 3, 4.

³ Appendix, class viii, fig. 9.

⁴ Appendix, class ix, fig. 1.

⁴ Appendix, class ix, fig. 2, 3.

⁵ Appendix, class ix, fig. 5.

While the court was exerting its power in levying the payment of fines,¹ Andrew Read, the treasurer for that part of the society which resided at Deal, received the cash; and when he was called on, he refused to produce any account; and, after many frequent and fruitless applications, an attachment was ordered.

It was about the same time, the court had it in contemplation, to raise a contribution from the lodemen, upon their admission into the society, and on their being advanced to the upper book; but as there appeared some doubt on the subject, it was ordered, that a search should be made for the ancient fees; which being found, and prevalent, they were continued as usual.

The commissioners for the town of Sandwich, being initiated into the practice of the court of Lodemanage, were desirous of introducing the system of taxation into their own jurisdiction, as it had been attended with so much advantage to individuals at Dover; and it was decreed,² that the law which was enacted in July, in the year 1625, should be extended to all strangers, which entered the haven for a freight,

While the officers of the court at Sandwich were endeavouring to make some additions to their fund, the lodemen of the same place, were devising means to raise their income. They presented a memorial to the admiral of the Cinque Ports, complaining of the inattention of the commissioners, in suffering strangers to conduct their ships to the quay, without the assistance of the lodemen.

As the commissioners at Sandwich had adopted one of the decrees of the court, their pilots were desirous of benefiting themselves by another, which confined the conducting of ships into the harbour, to a select number of mariners.

The admiral considered the subject of this memorial in a very serious light; and, in a letter to the commissioners of Sandwich, dated

¹ Appendix, class ix, fig. 6. ² Appendix, class ix, fig. 7. ³ Appendix, class x, fig. 1.

August, in the year 1629, he pointed out how impolitic it was to suffer strangers to be acquainted with the navigation of their haven. He informed them, that it was contrary to the custom of other countries, and it was endangering the safety of the town, and the neighbourhood. He enjoined them, in the King's name, not to suffer any foreigner to pilot a vessel, either up or down their creek, nor any other person, excepting an Englishman, properly authorized by the court of lodemanage, under such pains and penalties, as he, in his wisdom, should think proper to inflict, on any one of them, who should be found remiss in their duty.

To avoid the displeasure of the admiral, it was ordered, that if any person, not properly authorized by the court of lodemanage, should, after publishing their decree, presume to conduct a ship, either up or down the haven, he should pay a fine of twenty shillings, for every offence committed after their proclamation.

This order involved the commissioners in difficulties with the mariners of the town of Sandwich, who looked on themselves as holding the rod of authority over a port, which ought not to submit to such threatening language. They said, that they were empowered to pilot ships under their own charter; and they declared, that they would do it, in defiance of any notice or order of the court of lodemanage at Dover.

This refractory behaviour of the mariners of the port of Sandwich, obliged the commissioners, in less than a year, to apply to the officers of their court, at Dover, for instructions how to act, to avoid the censure of the admiral. They enclosed his letter; and they assured them, that the mariners were determined, to take charge of ships when they pleased.

This business seemed to put on a very serious aspect; for they were fully convinced, that the inhabitants of the town of Sandwich in general, were highly displeased with the infringements they had made on their liberties; and, as they dreaded a serious opposition, they therefore determined on lenient measures. They requested the commis-

oners at Sandwich to admonish the refractory mariners; and invite all those who were willing, to become members of their society; and then, if they continued disobedient, to threaten they should be taken to the Castle, to answer for their contempt of court.

It was impossible, that temporizing plans could compose the minds of the mariners, as they were continually irritated by their collecting old, and levying new contributions.

Though the officers of the court found themselves in this critical and perplexed situation, they determined to try compulsive measures at Dover, to compel the masters of vessels, sailing to the continent, to obey their laws. They ordered a new enrolment, and the turns to be regularly kept, and every captain of a vessel to sail by the direction of the master of the fellowship, or his subordinate officer.

This new enrolment produced no change, either in the opinions or the actions of the mariners; and experience soon taught the commissioners, that they must again have recourse to their old plan of compulsion; and they enacted, that every master of a vessel, sailing to the continent, without first acquainting the master, should pay a fine of twenty shillings.^{*}

To prevent the lodesmen in the lower book, from taking a turn from any in the upper book, it was ordered, in the year 1633, that they should not take charge of a ship of more than seventy tons burden.* They revived the decree, passed in July, in the year 1624, with a little alteration, which they called ancient; but, by the minutes of their court, it had no claim to antiquity.

In the year 1634, the court passed an order, to regulate the price for sailing with a freight to Calais and Bolougne; and they settled how much each master should take for sailing, either into the road or the harbour; and they laid a heavy fine on every master, who refused to sail in his turn.

* Appendix, class x, fig. 2. ^ Appendix, class x, fig. 3. ? Appendix, class xi, fig. 1.

'Though the society had been, for many years; divided into two classes, they had no regular time for being raised into the upper book, until it was determined, that they should rise in succession.

'The court, at the same time, ventured to speak, in the tone of authority; to the refractory mariners at Sandwich ; and they declared, that no person, unless authorized by them, should pilot a ship in the haven; and they fixed the sum he might have for his trouble.

The lower book pilots at Deal were, about this time, very much dissatisfied with the commissioners of the court of lodemanage, as but few of them were ever removed to the upper book ; and they were confined to piloting ships of small tonnage. To quiet their minds, it was ordered, that they should rise according to seniority ; and as the members on the list were very disproportional, if no just cause should appear to the contrary, they might take charge of ships of one hundred tons burden.³

If this conditional order was adopted, it did not satisfy the complaining lodesmen ; for in the year 1636, they petitioned the admiral of the Cinque Ports, and pointed out to him the great inequality in the number of upper and lower book pilots, at Deal. The petition was returned to the court ; and the officers, wishing to prevent too strict an inspection, judged it proper to make some further alterations, before they sent their proceedings to the admiral. They summoned the lodesmen, resident at Deal, to attend at their court ; and, upon examining the subject of their petition, the officers said, that it was not strictly true, that there were ten turns in the upper, to one in the lower book. They allowed, that in the years 1634 and 1635, the upper had the advantage of the lower book pilots, of three turns to one ; and that three members might be added to the upper book

¹ Appendix, class xi, fig. 1. ² Appendix, class xi, fig. 5.

³ Appendix, class xi, fig. 6.

list of twelve at Deal, which would be the due proportion between them, according to ancient custom.

After the court had adjusted this matter, business seemed to glide on more smoothly; for they imposed no more than five new fines in nine years. These may be considered by some, as a rapid increase of impositions; but, at the times we are speaking of, neither the power of the court, nor the rights of the people, were very accurately understood, when they fixed a fine of five pounds¹ on every person, who should take for a servant an apprentice, bound to any one of their fellowship.

¹In the year 1638, they appropriated to themselves one share, for the use of the capstan, which the society had erected; and the master and the wardens were each to pay a fine,² if they did not meet at the bench, at the time assigned them by the court, to expedite business, and settle disputes.

⁴At this time there were great dissensions in the fellowship, and two fines were added, to keep order in taking turns; and they were enabled to go on, until it was found necessary to have a new commission for holding the court.

Algernon Sidney, being appointed to the command of the Castle, considered himself as admiral of the Cinque Ports; and he signed a commission, in his own name, for regulating the affairs of lodemanage; and it shews in what indefinite terms, the admirals of the Cinque Ports had delegated their power, and the practice of the officers proves how much they abused it.

The commission.—Whereas it is necessary, that the ancient course and usage, of holding the court of lodemanage for the Cinque Ports and their members, should be duly observed; and whereas heretofore au-

¹ Appendix, class xi, fig. 7. ² Appendix, class xii, fig. 1. ³ Appendix, class xii, fig. 2.

⁴ Appendix, class xii, fig. 3, 4.

thority has been derived from the admiral of the Cinque Ports, or some other person in power; in his absence, to the mayors of Dover and Sandwich, and the master and wardens of the Trinity-house for the Cinque Ports, and to the clerk of Dover Castle, the town-clerks of Dover and Sandwich, and the serjeant of the Admiralty of the Cinque Ports, for their proceeding in holding the court;—I do therefore, by virtue of my office of Lieutenant of Dover Castle, authorize and depute the several parties for the time being, to proceed, according to the ancient customs and usages of the said court, in electing of necessary officers; empanneling and swearing of juries, and in examining and punishing offences, and in setting down rules necessary for future observance, in as full and ample a manner as their predecessors heretofore have done.

Dated the fifteenth day of June, in the year 1649.

Al. Sidney.

The power granted in this commission was couched in general terms; and it left the officers of the court at liberty to turn over their old records, and to bring forward their most oppressive taxes; yet it is very probable, that a man of Sidney's stern principles gave a considerable check to their proceedings, as there were no new taxes imposed under his government.

Colonel Strode, who was Lieutenant Governor of the Castle, in the year 1673, approved of the plan of granting a commission in his own name, and he was desirous of confining the power to himself; but he knew that he was answerable to the admiral for his conduct, and he was apprehensive of consequences. As he had a precedent in Sidney's commission, and he was highly favored by the King, he signed him a commission, empowering him to hold a court of lode manage at Dover, in the usual manner, independently of the admiral of the Cinque Ports; and it was highly approved of by the subordinate officers, as it suited their immediate purpose; and they never considered, that this

innovating scheme could be turned to their disadvantage ; but time, which unfolds the narrow projects of interested men, soon disclosed to them their precarious situation ; and that the power and emoluments of office, which they had so long enjoyed, would depend upon the will of their president.

Sir Edward Hales, Bart. who was appointed Lieutenant Governor of Dover Castle, in the year 1685, applied to James the Second, for a new commission, with a clause to empower him, and others, to elect the master and wardens annually, without consulting the members of the society. Sir Edward, under his commission, dismissed the master and wardens, which had been chosen by the fellowship, and he appointed others himself ; and he formed a court of such persons, who would execute his orders, without claiming any authority.

This was an humiliating fall to the master and wardens ; and it was a great infringement on the liberties of the lodesmen, who had enjoyed, for a considerable time, the right of chusing their master and wardens annually, out of their own body ; but they were obliged to submit to it, though reluctantly ; for the times were too unfavourable to expect any relief. The exceptionable clause was continued in the commission granted to Sir John Beaumont, and they had no remedy but patience, during the reign of Queen Mary.

* It is very probable, that from the time of Algernon Sidney, to the coming of King William the Third, the court had been confined to the regulating the affairs of the lodemanage of ships, as there were but few laws recorded, or taxes imposed, during that time. If he, or any of his immediate successors, made any new decrees, to restrain the exactions of the court, they have not reached us.

In the first year of the reign of William the Third, the lodesmen presented a memorial to him, shewing, that they had for many years enjoyed the privilege of electing their master and warden, at the an-

* Appendix, class xii, fig. 4, 5, 6, 7.

nual meeting, out of their own body; and by being deprived of it, by Sir Edward Hales, disorders were introduced, for want of proper persons, skilled in the lodemanage of ships, to regulate their society. To prevent the increasing evils, they prayed, that if his Majesty should be pleased to grant another commission, he would omit the objectionable clause, and reinstate them in their ancient form of government.

They requested, that the master and wardens, which had been displaced by Sir Edward Hales, might be reinstated; and that the society might annually elect their officers, according to their ancient custom; and that the commissioners might be reduced in their number. This was acting with the prudence and commendable spirit of Englishmen, in taking the first and most favorable opportunity to ensure success.

They petitioned William the Third to grant them their ancient privilege of electing their master and wardens of the court of lodemanage, as they formerly had done; and the King finding, by the report of the Judges, that it had been their ancient custom to elect them at their court, he gave them a commission, dated the seventh of December, 1689, to hold a court, and to proceed as they formerly had done.

The obtaining this commission, was considered, at the time, as a valuable point gained by the lodesmen; for they were not only to elect their master and wardens, but they were to have a jury of twelve skilful mariners, to hear and determine all questions concerning lodemanage. The King, by the advice of his judges, so far complied with their wishes, as to give them power to empannel juries, to administer oaths, and to do and execute every thing, for the better regulating the business of the court; but they were not to infringe either on the statutes, or the common law of the realm, nor the privileges granted by charter to the Barons of the Cinque Ports.

Colonel Beaumont, finding that he had no authority from the King to impose fines, and commit to prison during pleasure, as his predecessors in office had done, very wisely confined the business of the court to the lodemanage of ships. By this prudent conduct of the president, the court was purged of its arbitrary and oppressive demands; and their old records were left for a time undisturbed, as their precedents were of but little use to them.

The commissioners from the port of Sandwich, finding that there would be more trouble than profit in attending the court under the new regulations, very soon withdrew themselves from a troublesome office; and they left the regulating of the lodemanage of ships, to those who were more interested in it, than the inhabitants of their port.

There is an interval of nearly fifty years, in which there are but few new rules and orders of court; and it is very probable,¹ that the decrees of the republican presidents never reached us, as we find new laws were continually increasing, soon after the re-establishment of the old members.

About the year 1699, there happened a serious contest for a master. The wardens at Dover were all put in nomination. On casting up the votes, the late master, Mr. Neales, had twenty-seven; Mr Thomas Earl the same number; and Captain Robert Jacob twelve; and it was referred to the admiral of the Cinque Ports, who waved his privilege of giving the casting vote, and ordered them to omit Captain Jacob, and proceed to a new election; and Earl was chosen. This contest laid the foundation for several new laws; for limiting the time of holding the mastership; for settling the master's and the clerk's accounts; for paying the expences of the meetings; for adjusting trifling differences between the lodesmen; and for restraining them from behaving in an indecent manner to their superiors; and for taking charge of ships out of turn.

¹ Appendix, classes xii and xiii.

² Appendix, class xiv, fig. 1 to 10.

In the short space of ten years, after their obtaining their commission from King William the Third, they had introduced their old practice into the court, of governing by the will of their president. This arbitrary system of fineing, attaching, suspending, and depriving, at the pleasure of the president of the court, had regularly produced opposition between the governors and the governed; and every new law which was passed to compel obedience, acted as a stimulus upon the minds of the lodesmen, and they opposed the officers of the court, regardless of consequences.

In the beginning of the last century, the court passed an order, to enforce an old Gaulish law, which had been too long practiced by the feudal lords; which was the seizing such ships, as were driven by storms on the shores of their manors, and detaining them, until a recompense was made to the lord of the soil. This privilege was claimed by the great Barons, in the dark ages of feudal vassalage; and it was first meliorated, in granting licences to certain persons, and their paying a consideration for them. Henry the Third, of France, abolished this custom, in the year 1226; but this relick of feudal oppression, was not so soon blotted out of the manor rolls in England; for the commissioners of the court of lodemanage ordered, that it should be either suspension or dismission, for any pilot to proceed with the ship, after it had touched the ground, within the jurisdiction of the Cinque Ports, until satisfaction had been made to the officers of the admiral, for the anchor and cable. Though the court had passed several other laws¹ in the course of a short time, yet this was the last very oppressive order which they sanctioned, without authority from parliament. Time and experience had taught the officers of the court, that men in general were growing better acquainted with their natural and social rights, as

¹ Appendix, class xv, fig. 2.

² Appendix, class xi, fig. 3.

they were more clearly defined than they had been under their predecessors in office ; and they found, that their wanton abuse of an assumed power, was growing every year more dangerous.

From the origin of this court, the fines which had been imposed were paid with reluctance, by those who could not oppose the power which enforced the payment ; and soothing measures were adopted with those, who had the resolution and the means to question their authority. But the time was arrived, when temporizing and oppressive measures were found equally ineffectual, for discord had taken such deep root in the society, that a dissolution seemed inevitable, unless a speedy, and an effectual, remedy could be applied, to check the growing evils.

In this state of the society, an application to parliament was deemed indispensably necessary, to enable the commissioners to act with energy ; and they obtained an act, in the third year of the reign of George the First, for the better government of the lodesmen, and for securing their privileges ; but there is no historical information to be gathered, from the preamble of the statute, to cast any further light upon their proceedings.

This act is now repealed, and does not require any further notice, as it does not contain a word of the limited power delegated by the admiral to the commissioners, nor of the privileges granted by King William, to authorise them to empannel juries, to determine according to the evidence, proved on oath, by creditable witnesses.

The establishing such a system of government, by statute, would have counteracted the plan of the commissioners, which was to revive their old plan of government, by fine and imprisonment, at the will of the president.

At the first meeting of the commissioners, under the authority of an act of parliament, they began a new code of laws, according to their ancient plan ; and they commenced legislators, judges, and jury-

men, and pronounced sentence, and ordered punishment, at the will of the president; and fine, suspension, and dismission were inflicted, for disobedience of orders, and disrespectful words.

When the path of duty is rendered so exceedingly straight, it is next to impossible for the subordinate members to escape the rod of chastisement; for an arch look might be taken for an evil intention, and a down cast eye for a sullen contempt.

The commissioners, in framing their new code of laws, were as attentive in increasing the emoluments of office, as they were in establishing a power, which was not to be questioned by the lodesmen.

Under the pretence of having been at a great expence in procuring their act of parliament, they not only raised the admission fees, but they introduced, in a very extraordinary manner, one to be paid to the deputy president, as a compensation for his trouble; and the form of the oath, for every lodesman to take at his admission, was altered in consequence of it.

The oath.—I A. B. do voluntarily depose and swear, that I neither have by myself, nor any other for me, directly nor indirectly, by word or writing, given, or promised to give, to any person or persons whatsoever, any sum or sums of money, or any other gratuity or thing whatsoever, for or on account of my present admission to a lower book pilot, of the Trinity-house of the Cinque Ports; except the open, just, and established fee of three guineas, to the deputy governor of Dover Castle; and ten shillings and eight-pence, to the register thereof; paid by every pilot on his first admission into the said fellowship; and also except the farther sum of three guineas, appointed by the order of the court of lodemanage, to be paid by every pilot, on his admission to be a member of the said fellowship; and also except the real, necessary, and unavoidable charges of the meeting of the master and wardens, to perform the order of examination. I do also swear, that, at the time of my admission into the said fellowship, I am now fully twenty-six years of age, and am not more than forty-six.

The old and established fee of three guineas, as mentioned in the oath to be paid to the deputy governor of Dover Castle, was unknown in the records of their court, until the year 1717, and from that period, the expences at admission have been considerably increased; and the new lodesmen must suppose, by the words of their oath, that they had not paid more than others had done before them.

The harmony which was expected from this restraining code of laws, continued but a short time; and it is but seldom, that men submit their necks long, and patiently, to the yoke which galls them; for in about two years, the commissioners had the mortification to see their laws disregarded, and their whole system thrown into confusion. The lodesmen not only set their rules and orders at defiance, but they differed among themselves, and persecuted each other. The lower book lodesmen took charge of ships, which belonged to those in the upper book; and the pilots of Dover and Deal encroached on each others privileges, and law suits were the consequence.

This obliged the commissioners to adopt new laws; but the most rigorous measures were very far from producing any thing like order. The suspensions and dismissions¹ were so many and frequent, that the court determined on admitting the lodesmen with conditional branches; neither would they confirm them, until they had received satisfactory proof of their peaceable and submissive behaviour. But even this precaution, was very far from producing the desired effect; and, as the punishing, at the will of the president, might be attended with serious consequences, it was determined to apply again to parliament, to confirm the authority they had assumed.

It had been customary for the master and wardens, to order a certain number of lodesmen to be continually in their boat on the water, whenever the wind would permit, to wait for homeward-bound

¹ Appendix, class xviii, fig. 5 and 6.

ships ; and as they were not limited to any station, they were accused of sailing a considerable distance from the shore, to meet the India-men, and of assisting them in the contraband trade. This complaint obtained them another act, in the seventh year of the reign of George the First; and from the preamble of it we learn, that frauds were frequently committed, in clandestinely running of goods, out of ships and vessels home-ward bound, as well from the East Indies, as other ports, on pretence of boats plying with pilots for such ships, at a great distance from the proper station of such pilots; by means whereof they escape the inspection of the officers of the customs ; and several mischiefs and inconveniences have happened, as well to his Majesty's as to merchant ships, by the disorders and negligence of pilots residing at Dover, Deal, and the Isle of Thanet, which are not sufficiently prevented in the preceding act. Be it therefore enacted, that it shall and may be lawful, to and for the Lord Warden of the Cinque Ports, or his deputy for the time being, with the assent of the commissioners, and the master and wardens of the society, or the major part of them, to make such rules and orders, for the better government and regulation of the pilots, as shall be thought fit and convenient ; and to order and direct a proportionable and sufficient number of the respective pilots, not less than eighteen, to be constantly at sea, at all reasonable times, to be ready to conduct such ships up the rivers Thames and Medway, as shall have occasion for them ; and it shall be lawful for the aforesaid persons, or the major part of them, at a court, to suspend, or deprive, any of the said pilots for breaking such rules or orders, or omitting any thing required by the same, as for acting any-wise contrary to such rules and orders ; and if any of the said pilots so suspended, or deprived, during the time of such suspension, or deprivation, shall take upon him, or themselves, to conduct any ships from Dover, Deal, or Thanet, to any place in the said rivers, such pilots shall be liable to all such pains and penalties, as such persons as have not been examined, and admitted into the society.

At the first meeting, held under this statute, the commissioners met with a determination to frame a code of laws, to compel obedience. Instead of turning over the bulky volumes of their proceedings, and revising and methodizing what might appear the best calculated to maintain order, they proceeded, as they do in old and corrupt states, in adding decree unto decree, and resolution to resolution, to fine, suspend, and dismiss, at the will of the president, when the statute only authorized them to try the aggressors by their rules in court, and they ought to have heard and determined the offences of the lodesmen by a jury.

'The profession of a lodesman was, at that time, very far from being an evitable situation; for there was a standing order, for a certain number of them to be continually at sea, at the pleasure of the wardens; and there was no medium between implicit obedience and suspension for the first remonstrance; and dismission for the second.

But this was not thought a sufficient punishment by the commissioners; for, by their new code of laws,^{*} the offender was at the mercy of the president; and he was to make such recompense as he might think proper to order him; and there was no appeal from his sentence.

The fines, which were appropriated for particular uses, the lodesmen had reason to believe, were misapplied; but they dared not inquire, as suspension would have been the consequence.

There appears to have been a systematic plan of misapplying a certain portion of the sums, paid by the lodesmen for particular uses, to purposes which were never intended, as early as the year 1720; and it is very probable, that it was practised at a more early date. But, under the last statute, the proceedings of the court were materially changed.

When the commissioners assembled, they considered themselves as a legislative body, to enact laws; and the master and wardens were

* See Statute.

Appendix, class xvii, fig. 10.

left to suspend at their pleasure ; and when the court met to hear the petition of the injured person, it either took off, or prolonged the suspension. This method of administering justice is unknown in our superior courts.

' After the commissioners had tried this rigorous system for two years, they were obliged to allow, that after every possible care had been taken to make good laws, to promote the general welfare and prosperity of the society, yet some unhappy division always prevented it.

The court proceeded in this manner nearly half a century more, with but little variation ; until the commissioners found it necessary to check the growing animosities between the lodesmen.

Local prejudices had given rise to divisions between the pilots of Deal and Dover ; and the court decreed, that their number, at each place, should be more equal ; and at Margate, and at Ramsgate, they should be proportioned to the duty.' Copies of several new laws were ordered, by the court, to be given to the lodesmen, that they might not plead their ignorance, when they transgressed them.

The court ordered, that the lodesmen, while waiting at sea for homeward-bound ships, should be confined to certain limits. The six lodesmen from Dover were not to sail further to the westward, than to a place called the Red Fall. The nine pilots from Deal were not to go further to the southward, than to bring the two lights at the South Foreland in one. The pilots in the Isle of Thanet were to keep to their own bays, and the North Foreland. The usual punishments were inflicted for their disobedience.

The keeping the pilots upon the water, to wait for homeward-bound ships, was probably continued, until some of their lives were sacrificed in the service ; and it was then thought, that a room on the shore, commanding an extensive prospect to the westward, would an-

¹ Appendix, class xix, fig. 2.

swer every purpose, and be the means of preserving the health, and the lives of an useful body of men, without injuring the service. A room was accordingly built, and provided with good glasses, and two of the pilots next in turn were always upon the spot, and they had a boat to take them off, when wanted.

That there might be a succession of able pilots, the court decreed, that once in every year, in the time of peace, two wardens from Dover, the same from Deal, with two or three pilots from the upper and lower book, should hire a vessel, at the expence of the society, and take with them a certain number of young men, who were desirous of admission into the fellowship, to take a survey of the sand banks, and shallows, on the coast of Flanders and Holland, and in the passage to the Thames and the Medway; and they were to lay their observations, and their journals, before the court.

The pilots had always a dislike to the taking charge of the King's ships, when they were cruizing in the North Sea; or on the coasts of Flanders or Holland, in the time of war. The strict discipline, martial law, their long confinement, absence from their families, and their situation while on board, all united in rendering the service disagreeable to them.

In the American war, the admiralty board, taking the matter into consideration, endeavoured to make their situation on board a ship of war more comfortable. They issued orders to the captains of ships and sloops of war, in the King's service, to treat the pilots with the same respect as the warrant officers. The purser was enjoined to have a set of bedding for them; and the captain, by his instructions, was to order them to be supplied with hammocks, to be slung in a convenient place, near their duty, and separate from the common men.

A pilot, conducting a ship in pilot water, was to have the sole command, and might give orders for setting and handing the sails, braceing the yards, putting the ship into stays, and doing such things as he should think proper. The captain was to take care, that the

proper officers and men obeyed the pilot's orders ; and he was to watch his proceedings ; and if he behaved ill, or appeared to be endangering the ship, he might then remove him from his command, and take charge of the ship ; noting in the log book, the exact hour the pilot was deprived of his power, and the reason of his doing it. If this order rendered the pilots situation on board a King's ship more comfortable, it was very far from reconciling them to the service.

Every lodesman is sworn, at his admission, to observe all the rules, laws, and orders, of the court, and such as are afterwards made, from time to time ; but the volumes which contained them, were for many years closed, unless they paid a fee of thirteen shillings and four-pence, to gain a little information. It was the same with the books, which contained the receipts and disbursements paid into their fund, and expended by the wardens. As the privileges of the pilots were frequently invaded, by persons who were not admitted into the fellowship, they expected that the wardens, who had the sole direction of their fund, would prosecute the offenders, as every member of the society would be equally benefited by it.' As the wardens would not agree to expend the money in law suits, several of the pilots, about the year 1796, subscribed to raise a fund, for prosecuting such persons as infringed on their rights ; and they entrusted the principal management of the business to four members of the fellowship, who had steadiness and resolution to encounter difficulties, and to risk the hazard of suspension, and dismission from the society.

This select committee, finding themselves as ignorant of the laws by which they were governed, as they were of those by which they were to punish others, who transgressed the decrees of their court, found it indispensably necessary to apply to their wardens, for a free access to the records of their court, lest they should err in their proceedings, for want of proper information. In the month of January, 1798, they

* See Statute.

applied to the wardens, for permission to inspect the books for the orders of court, for establishing a fund, that they might know how their money had been applied, and the state of it to last Christmas.

This step was as new, as it was unexpected and unprecedented, to the wardens ; for the ordinary members had not been suffered to inquire after the application of any money collected for their fund ; and the wardens at Deal, endeavoured to evade giving them a direct answer ; and they said, that the court of lodemanage was the only place, where they could apply with any hope of success.

The members of the select committee had all of them smarted under the orders of the court ; and the answer they had received to their application, served only the more to irritate them ; and they said, that they would seek a redress for their wrongs in a superior court.

The wardens, having been unaccustomed to such threats, were rather alarmed, and they applied for advice in their new and critical situation. The refusing the lodesmen the privilege of inspecting the laws they were to obey, and of examining the accounts of the expenditure of their own money, would not bear a strict examination in a superior court ; and the register of Dover Castle, in his answer to the wardens residing at Deal, said, he had seen several letters, addressed to the treasurer, for leave to have free access to the books belonging to the society ; and, in his opinion, it was right and proper, for any of the lodesmen to make extracts, at all fit and convenient times ; but he did not think the wardens should let the books go out of their own possession.

He added, that there could not be any objection to the treasurer's informing them of the balance in hand up to the last quarter ; but if they wanted any further information, relative to the state of the fund, it might be had, by two pilots applying for a state of the accounts to be laid before the next court of lodemanage. He desired, that a copy of his letter might be laid before those who had made the application.

The treasurer sent them the copy, and he informed them, that they might examine the books of orders every Monday, from ten to twelve of the clock.

The committee considered the granting of access to their rules and orders, with this restriction, was designed to prevent them from gaining any competent knowledge of their laws; and they addressed a few lines to the treasurer, signifying, that the time he had mentioned was not sufficient to answer their purpose; and that they expected a free access, at all fit and convenient opportunities, and they were determined to have it.

The treasurer refused to take their letter, as he expected it contained something hostile to his views. The committee, finding but little probability of succeeding in their application to the treasurer, applied to two gentlemen of the law, in the neighbourhood of Lincoln's Inn, who, like some few of their profession, were desirous of keeping their clients from going into court, if it could be prevented. They applied, by letter, to the treasurer, for leave for the pilots to inspect, and take copies of, the accounts of all money transactions, in his possession, which concerned the fellowship. They left the refusal, or the compliance with their request, to his own judgment, or to the advice he might receive from his superiors. They added, that they knew he had been frequently applied to by the committee; but if he refused to grant them their reasonable petition, they should take the necessary steps to compel him; and they did not doubt, but an attachment, and a commitment of his person, would be the consequence of his refusal. They concluded with saying, that some of the members of the fellowship would call on him with their letter, and a witness, to request permission to take copies of the accounts; and they also required, that he would exhibit them at the next court of lodemanage.

In the mean time, preparations were making for an application to the court of King's Bench, to obtain a sight of their rules and their

accounts ; and three of the complaining pilots made affidavits how their business had been transacted ; but they are designedly omitted, on account of their length, as are also the affidavits of their opponents.

As they were ignorant of the power and the records of their court, and doubtful whether there were any precedents in their favor; and the expence being a serious consideration, twenty-three of the pilots, during the suspension of their business, signed a petition, to be presented to the admiral of the Cinque Ports, to request his interference in their behalf. They stated the number of members in their society, and the money which had been paid into the treasurer's hands during the course of thirteen years. They also informed him, that they understood the money which they paid ought to have been applied towards the support of superannuated pilots ; who, from age and infirmities, were incapable of doing their duty ; and they had several in that situation, who wanted relief ; and they had made several attempts to procure information how their money had been expended, and why it had not been applied to the purposes it was at first intended.

They further stated, that they were sworn to obey rules and orders which they were ignorant of, until they were informed of them by their wardens, when they wished to fine them ; and they prayed, that he would direct the treasurers and clerks, to render an account of their fund, that their different contributions might be properly applied in future ; and that the laws, by which they were to be governed, might be printed, and a copy given to each member at his admission, as practised at the Trinity-house, at Deptford, when any one is admitted into that society.

As this reasonable petition was very far from producing the desired effect, and as the hearing of their case was put off by the Lord Chief Justice, in consequence of a press of business, until the Easter term ; they determined, as they had heard so much of an order of the court of Lodemanage, that they would make a formal application at the next meeting of this court.

The notice of their intention was sent to the wardens, treasurer, clerk, register, and deputy register, of Dover Castle, in substance as follows,

"We hereby inform you, that at the next court of lodemanage, to be held at Dover, some one, or more, of the members of the society of pilots, of the Deal division, will attend, and then and there require of the said court, and of the register of Dover Castle, and of the treasurer, clerk, and wardens of the said division, the full and free inspection, for themselves and all their members, of all and every of their books of accounts, belonging, or in any wise relating to, the said division; containing the receipts and disbursements, of the several sums of money paid to the wardens and treasurer for the time being; and the persons who apply, will desire that the court will make an order, for the register, the wardens, and treasurer, to comply with their request."

Three of the complaining pilots attended, on the twenty-eighth day of March, 1799; and John Bailey, one of them, was admitted, to make known his business to the court.

Pilot.—The intent of this application, is to gain some information of the laws which we are to obey; and the state of our fund; and I request the privilege of inspecting the books, containing the box-tunns to which I am a contributor; and as I understand the fund was at first designed for the benefit of the fellowship; I wish to know how the money has been applied. I desire also to see the books, which contain the laws I have sworn to obey; and I humbly request an answer to my application.

He was asked, why he did not apply to the court at first; as he was made a pilot in it, and was bound to obey its orders?

Pilot.—The wardens at Deal always desired every pilot, who had any business at the court, to acquaint them of it, that they might introduce it; and William Collier had applied to the warden of the quarter, respecting the business he had mentioned.

One of the members of the court said, I am unacquainted with the application; but you shall be permitted to inspect the box turns at Deal, for every quarter; and you may form a committee from among yourselves, to examine the accounts, and the rules and orders, at all reasonable times; and if you are dissatisfied, you shall have justice.

I know that there have been great jealousies concerning the application of the box turns, and suspicions that the money has been squandered in an unnecessary manner. I do assure you, that in future, the books shall be regularly kept, and produced at the court every quarter. The fees of the master and wardens, for attending court, and for examining candidates, shall be done away; and the money shall be equally divided between Dover and Deal, one half to each box; and the master and wardens shall have a yearly allowance for their trouble. The master shall have six, and each warden four guineas a year, and the rent of a room, fire, and candle, for settling the business of the fellowship. You shall be permitted to take copies of all rules and orders, relating to the society, at reasonable times. These things might have been obtained, if you had applied to this court; the only proper place where you ought to have applied, and it would have saved you much trouble and expence.

Pilot.—May I retire with a full assurance that an order will be made to this extent; and that I may have leave to inspect all books belonging to the fellowship.

Answer.—You may.

The following order was accordingly made, at a court of lodemanage, the twenty-eighth day of March, 1799,

Cinque Ports.—At a court of lodemanage, holden at the Antwerp Inn, under the usual commission,

“Whereas the master and wardens of Dover and Deal have had and received certain very ancient and customary fees, for examining every person for admission into the fellowship, and for examining

every pilot, before his admission into the upper book; it is now, upon due consideration, ordered, that such fees shall be no longer received by the said master and wardens; but that every pilot, at such admission and removal, shall continue to pay the accustomed sums; and what has heretofore been taken by the master and wardens, for their fees, shall be paid into the fund, one half for Dover, and the other half for Deal; and, instead of the said fees, the master and wardens at Dover shall receive, out of the box, the following sums annually; the master, six guineas, and each of the wardens, four guineas; and the wardens at Deal the same; to commence from the twenty-fifth day of March last."

As it has been usual for the master and wardens at Dover, and the wardens at Deal, at their frequent meetings on public business, and also for settling their quarterly accounts, to incur expences at taverns, which they charged in their credit to the society; it is now ordered, that instead of being allowed for such expences, the master and wardens at Dover shall have sixteen guineas out of the fund, and the wardens at Deal the same, yearly, from the fifth of April.

It was further ordered, that the pilots at Deal should be permitted by the treasurer, clerk, and wardens, at all reasonable times, to inspect, and take copies of all books of accounts and orders belonging to the society.

The complaining pilots had taken copies of the clerk's turn books, during the time of his clerkship; and some of them had kept an account of the turns they had carried, from the time of their admission into the fellowship; and they had reason to conclude, from the knowledge they had acquired, that there were upwards of two thousand pounds due to the society.

As there had been such a large sum collected, and they had not advanced, out of their fund, any thing towards the support of the superannuated pilots, they were at a loss to know how the money had

been applied, and this increased their suspicion that there was something wrong.

From the appearance of their affairs, they determined to apply again to the court of admiralty; as they had been told, that justice should be administered to them, if they had any cause of complaint.

Three of the complaining pilots made known their intention of applying again to the next court, in July, 1799; and Robert Campbell was the first called. As he was considerably agitated, and had a paper in his hand, containing his request to the court, he was desired to give it to the deputy register, who read as follows. "Upon examining the treasurer's and the clerk's accounts, for the last seventeen years, I find a deficiency of upwards of two thousand pounds, and I apply to this court for justice; and I humbly hope, that an order will be made, to require the present treasurer, clerk, and wardens, to pay the balance into the hands of the members of the fellowship, for their benefit."

"I further beg the attention of this court, while I say, that I think it a heavy grievance, in being suspended and fined, at the will of the wardens, without being heard or found guilty; and this, I humbly conceive, to be contrary to the proceedings of every court of justice, and to the ancient practice of this court, and to the authority under which it acts; and I think, that I have a right to be tried by a jury of twelve men, competent to judge of the matter before them; for, by the laws of this kingdom, a person is not to be punished before he is found guilty."

The application of Messrs. Campbell and Bayley was new, and unexpected, and it produced some altercation between the parties; but as the complaining pilots were firm, and were not to be intimidated, the court was obliged to attend to the business; and though they could not, at the time, obtain any satisfactory answer to their request, the following decree of the court was afterwards transmitted to them.

Cinque Ports, fifteenth of July, 1799.—"Upon complaint to this court by Robert Campbell, Thomas Bayley, and Jeremiah Mowle,

pilots, at Deal, of the irregularities of the clerk and treasurer of that place ; it is ordered, that such accounts be inspected by all the pilots at Deal, or by a committee of such pilots as may be appointed by a majority of the fellowship there ; such committee to consist of not less than nine ; and that the inspection of such accounts, from the fifth day of April, 1782, to the fifth day of April, 1799, and their report of such inspection, be made at the next court of lodemanage.

" It is further ordered by this court, that George Leath and John Bray, members of this court, be requested to attend, and to give their advice and assistance to the committee, and to make their report ; and that a clerk be employed by such inspecting pilots, or committee, if it should be thought necessary, to carry the said order into execution."

When the court of inquiry met for the transaction of business, one of the members required of Robert Campbell, to produce his charges against the treasurer and the wardens ; and they were as follow :

First—The wardens have received large sums of money, at different times, for the use of the fellowship, which they have applied improperly, without rendering an account to the fellowship.

Second—They have destroyed books and papers belonging to the society, with a design to prevent any regular examination taking place.

Third—That many of their bills and accounts are fabricated by themselves ; and the society is charged with the credit of expences, which never occurred.

Fourth—That the wardens have been guilty of partiality.

Copies of the above charges were delivered to the wardens, to prepare for their defence ; and they met on the twenty-seventh day of November, for business.

After the persons appointed had finished hearing the evidence on both sides, respecting the foregoing charges against the clerk, treasurer, and wardens, they drew up the following report, to be delivered at the

next court of lodemanage; and in the mean time, they were to continue their meetings, if business required it.

Copy of the report.—We, your court of inquiry, have met, agreeably to your order of the fifteenth day of July, 1799, to inspect into the accounts of the clerk and treasurer of the fellowship of pilots, at Deal, from the fifth day of April, 1782, to the sixth day of July, 1799, and we have diligently examined into all matters relating to the aforesaid accounts, and likewise to the four charges, brought by the plaintiffs, against the treasurer, clerk, and wardens, at Deal.

In investigating the first charge, we have divided the time into three distinct periods. The first, from the fifth day of April, 1782, to the fifth day of the same month, 1796, which includes fourteen years of Mr. Paine's wardenship. The second, from the twenty-fifth of October, 1796, when the court ordered the accounts to be kept in a regular manner, to the fifth day of July, 1798. The third, from the fifth of July, 1798, to the fifth day of July, 1799, which is the closing of the account.

In this arrangement, we have found it necessary to examine the second period first; because the death of the treasurer, and other impediments, have made it difficult to examine the first period by itself.

In investigating the second period, of seven quarters, to shew how the treasurer had expended the sum of £276 : 16 : 9, he produced vouchers for £180 : 19 : 1; but he had no vouchers for the sum of £92 : 17 : 8, expended in settling the quarterly accounts at Deal; and he says, the reason why he had none was, because he had no instructions to preserve them.

As we were so circumstanced, your committee could only judge of the expenditure in the second period, by what had been done in the third.

We find that the sum expended in the last five quarters, is at as great a rate as that charged in the seven quarters, in the second period;

and as the plaintiffs did not object to the charges in the last period, we are therefore of opinion, that the sum charged is as proper in the one instance, as in the other.

As the accounts in the first and second periods were kept in the same manner, and as the objections made by the plaintiffs in the third period were removed by the vouchers produced; we therefore judge the same rule will hold good for the three periods. Mr. Paine has proved, to the satisfaction of your committee, that he has expended all the money he had in his hands; but as to the propriety of the expenditure, or to whom he paid it, that is not quite so satisfactory.

He has paid the whole of the interest, arising from the money in the public funds, to the wardens, for their own use, without any order for doing it; and he says he did it, because he gave security at his entering on his office. This he ought not to have done, if he had so applied the interest of the floating balance he had in his hands.

Your committee find, that this has not been practiced by Mr. Paine only, but by his predecessors in office, as far back as the year 1781, and it was equally improper in all of them. Your committee, therefore, conceive it their duty to state to you, that they are of opinion, that the whole of the interest, so improperly applied, ought to be refunded, and disposed of as you shall think proper.

We think that the wardens joining with the treasurer, in giving security, is rather making themselves accomplices in error, than checks, as they ought to be, for they sign the accounts as just and right.

Your committee further observe, that they have found the accounts, not only before you ordered them to be kept in a regular manner, but since, in a very incomplete state.

Objections to this report by the complaining pilots.

First—We object to the sum of eighteen pounds for interest having credit in the treasurer's accounts; it ought to be returned, and added to the stock.

Secondly—The sum of twenty-four pounds, paid to the wardens for the loss of turns, while attending the court of Iodemanage, is an exceptionable article, as it is contrary to an order of court of the twenty-ninth day of March, 1764.

Thirdly—That the sum of ten pounds, charged by the treasurer for court expences, above the statement given by the master and clerk, cannot be allowed.

Fourthly—That the court having decreed, that the order of the twenty-ninth day of March, 1764, shall be altered; and that the master and the wardens of Dover and Deal, shall not in future have any thing out of the box, if their turns be carried five days before the holding of the court.

The committee considered, that the complaining pilots had only proved the first charge in part, and that they had failed in the other three.

To this part of the report the pilots dissented; and they said, that they proved their first charge by the misapplication of the interest; by the money paid to the wardens, contrary to an order of court; and by the surcharge of ten pounds, beyond what was mentioned in the master's letter.

The second charge they considered as proved, by the clerk and wardens not being able to produce three years books.

The third, they said, was proved by the surcharge, as mentioned in the first, and may be further proved, if the wardens and treasurer could not produce any accounts of the £92 : 17 : 8; and there would be reason to conclude, that their turn money was included in that sum.

They acknowledged, that the former charge was not proved, because they had not entered into it.

The committee, in this report, intended to get clear of the £92 : 17 : 8, by averaging the expences with the last five quarters, in what they called the last period; but they said, the wardens loss of

turns is included in the five quarters, which is the reason of the expences being so high; and yet the committee have fixed on them as the standard to estimate the expences for the other period.

They added, that they had not only suffered the illegal charge, but they had permitted the treasurer and the wardens to charge for their turns a second time; by which the fund had been defrauded forty-eight pounds. They thought the objections to the five quarters accounts trifling; and that they were removed by the vouchers produced by Mr. Paine.

We beg leave to say, that we did then, and still do object to the improper charges mentioned in the five quarters accounts, at fourteen pounds the quarter; the charges are seventy pounds; in which we include thirty-six pounds paid to the wardens. If this sum be deducted from the seventy pounds, it will leave but £6 : 16 : 0 a quarter for expences, instead of fourteen pounds.

If the wardens are permitted to make a separate charge of their turns in the seven quarters, according to your rule of calculation in the last period, then the expences will be £13 : 5 : 4 $\frac{1}{2}$, instead of £6 : 16 : 0, including the treasurer's salary; and there will be only £47 : 12 : 0, instead of £92 : 17 : 8, to be allowed in the treasurer's accounts. Are these objections trifling?

As the plaintiffs produced so many strong objections to the report of the committee, there was but little probability of their terminating the differences very speedily, or very amicably; but they met again, at Deal, the twenty-eighth day of May, 1800.

The complaining pilots were informed, at this meeting, that the twenty-four pounds paid by the treasurer to the wardens, for their loss of turns, while they were in waiting, had been submitted to the consideration of the court. It was allowed, that the order confined the time to five days; but the register had directed the wardens to hold themselves in readiness eight days previously to the meeting of the

court; and therefore the wardens must have credit for the twenty-four pounds, and the register must be accountable for that sum.

They were then asked, if they had any thing further to bring forward?

Mr. Bayley presented another account of £282 : 14 : 8, which had been paid into the hands of the wardens, for the five quarters, from the beginning of October, 1796, to the end of July, 1798, for upper and lower book turns, suspensions, interest, and other articles; and he requested that the accounts might be examined by the fellowship's books, and the treasurer or his deputy might be called upon for a statement of the expenditure.

Mr. Paine had a copy of Bayley's statement; and they were required to attend at the adjourned meeting, the eleventh of May, 1800.

Mr. Bayley produced his further objections to the accounts; and the chairman moved, that the turn books, the treasurer's book, and the books of rules and orders, be laid on the table.

The committee found, in the five quarters,

	£. s. d.
490 upper book turns, at 4s. 6d. each.....	110 5 0
476 Lower book turns, at 3s. 6d. each	83 6 0
Box and superannuated turns, at 4s. each.....	14 0 0
3 Box turns, at 28s. each.....	4 4 0
1 Choice turn.....	2 15 0
5 Rear suspension turns, at 30s. each.....	7 10 0
Interest of money.....	15 0 0
Increase of stock.....	7 2 10
	<hr/>
	£244 8 10

The committee refused to admit five rear suspension turns in the upper book, and sixteen in the lower book, until the plaintiffs could produce further proof.

They applied to the master again, for an account of the charges for holding the court, during the five quarters in dispute, and he sent them the following letter:—

“ Mr. Mowle.—You desire me to give you an account of the chaise hire for the Deal wardens, when they attended the court of lodemanage; but I cannot say, as it is usual to put the chaise, and the other charges, which occur between the courts, into one sum, which we call Deal charges. It never was customary to have vouchers for all the disbursements. I send you the expences for Deal part for holding the courts.

	£. s. d.
15th July, 1795. Deal court charges.....	17 14 6
19th March, 1796. Ditto.....	8 10 0
12th July, 1796. Ditto.....	19 17 0

“ Dover, 3d May, 1800.”

“ John Cowley.”

The plaintiffs suspecting an error in the above statement, they applied again to the master for an explanation, and they received the following answer:—

“ The expences for holding the general court, the twelfth day of July, we think is right for Deal; although the late master stated, in the accounts, paid the register's bill £16 : 6 : 4, without mentioning any court charges, which we think is a mistake.

As it appeared, by the master's letter, that all expences between the holding of the courts were brought into one sum, and divided between Dover, Deal, and Thanet, the plaintiffs insisted, that the sum of £92 : 17 : 8, charged for settling the accounts, was an improper charge, and not to be admitted; and they said it was impossible, that the expences for holding a court in July, could amount to £46 : 6 : 8*½*, unless all other charges were included in it.

June the 6th, 1800.—Mr. Bayley observed, that the treasurer had credit for twenty-four pounds, which was paid by the direction of the register; yet he must be answerable to the fellowship for it; and he desired, that the committee would charge the treasurer with that sum in their next report.

The committee then required of the plaintiffs, to state to them the sums they supposed the treasurer and the wardens had received, during the first period. They produced the following account.

	£. s. d.
From the 5th July, 1782, to the 5th July, 1795....	1487 7 8
From the 5th July, 1795, to the 30th Oct. 1796....	282 11 4
As the books from the 5th April, 1782, to the 5th of April, 1785, are said to be lost, it is supposed that the wardens received, during that period...	289 17 0
	<hr/> £2059 16 0

The committee then asked the treasurer, if he admitted that he received the above sum within the time mentioned?

Answer.—We have no accounts.

Question to the complaining pilots.—What sum do you state to have been paid, into the treasurer's and wardens hands, during the second period, from the twenty-fifth day of October, 1796, to the twenty-fifth day of October, 1798?

Answer.—£276 : 16 : 9.

Question to the treasurer.—Have you any account of the expenditure for the above period?

Answer.—Yes.

Produce it.

	£. s. d.
Paid Mr. Bayley, while in the tender.....	4 5 0
Interest to the wardens.....	18 0 0
Loss of time attending court.....	24 0 0
Deal part of expences holding four courts....	60 4 10
To pilots attending court.....	15 1 0
To settling quarterly accounts at Deal.....	92 17 8
To public donations.....	55 10 8
To treasurer's salary, seven quarters	5 10 8
	<hr/> £275 9 5

Plaintiffs questioned by the committee.—Have you a statement of the money received by the clerk and treasurer, from the fifth day of July, 1798, to the fifth day of July, 1799?

Answer.—Yes; £173 : 2 : 8.

Treasurer questioned.—In what have you expended the sum of £173 : 2 : 8, mentioned in the last period?

Answer.—Our accounts have been laid before the court, and approved of there.

Question to the plaintiffs.—Do you know of any other sums of money paid to the treasurer, from the fifth day of July, 1782, to the fifth day of July, 1799?

Answer.—Yes. Every pilot, at his admittance, pays £8 : 9 : 8; and when removed, £4 : 6 : 6; which will amount to £111 : 19 : 6.

Question to the treasurer.—Can you tell how this sum has been expended?

Answer.—We have no accounts; the committee must apply to the register for information. Adjourned.

A list of the sums received by the treasurer, the clerk, and the wardens, at Deal, and for which they are accountable to the society.

	£. s. d.
Received, from the 5th of April, 1782, to the 5th of April, 1795.....	1487 7 8
From the 5th of April, 1795, to the 5th of July, 1795, the time the books were missing.....	282 11 4
From the 5th of July, 1795, to the 10th of October, 1796.....	276 16 9
From the 5th of July, 1798, to the 10th of October, 1799.....	173 2 8
For admissions and removals.....	<u>111 19 6</u>
	<u>£2331 17 11</u>

June the tenth, 1800.—The committee met to finish their inquiry; and an affidavit was produced of the master's, to prove, that the sums

paid for the four courts, did not include the twenty-four pounds paid to the Deal wardens, nor the incidental expences between the courts, for providing pilots for his Majesty's service.

Mr. Bayley then presented a paper to the following purport, which he requested they would enter on their minutes, for the information of the members of the court of lodemanage.

I find in the treasurer's and clerk's accounts, the following charges, for obtaining pilots for his Majesty's service.

	£. s. d.
1798. From the 5th of June, to the 5th of July.....	5 5 6
To the 10th of October	3 3 6
1799. To the 5th of January.....	3 0 0
To the 29th of September.....	2 17 4
To the 25th of December	0 8 0
	<hr/>
	£ 14 14 4
	<hr/>

Mr. Bayley insisted, that the whole of this charge was an imposition on the fellowship ; and he requested, that they would report it to the court, as he supposed it had escaped their notice.

When the court assembled, on the fourth day of July, 1800, the plaintiffs sent in a petition, requesting, that they might be permitted to hear the second report of the committee read.

One of the pilots was sent for, and informed, that they should have a copy of the report, and they might make their remarks on it, as the business could not be determined that day.

The pilot said, Sir, we request permission to be in court ; as you told me last July this was a court of justice, and an open court.

As this request was denied them, they sent in a second petition, requesting, that they would bring the business to a conclusion, and not compel them to apply to another court.

A copy of the report was given them, on the fifth day of July ; and they were requested to meet the committee on Tuesday, as they

had a proposal to make, which it was hoped might be satisfactory to all parties.

Copy of the second report.—We, your committee, have, agreeably to your orders, again examined the accounts of the clerk and treasurer of the pilots of this place. We have proceeded, as in our former report, by dividing the time into three periods. From the fifth day of April, 1782, to the fifteenth day of October, 1790, we find the clerk and treasurer have received £2059 : 16.

We have called upon them to say in what manner this sum has been expended, and they say, there is no account of it in existence; and all those who could give any information, are dead.

We have also called upon the treasurer, to give an account of the disbursements of the seven quarters, or the second period, which he has done with the following articles, and which we think right and proper:

	£. s. d.
To Thomas Bayley, while in a tender	4 5 0
To Deal part of four courts.....	40 4 10
To sundry pilots, their attendance.....	15 1 0
To public donations.....	55 10 8
To treasurer's salary, five quarters.....	5 10 3

Your committee consider it their duty to offer the following observations.

The twenty-four pounds paid to the wardens for their loss of time, while attending the court of Loadmanage, was done contrary to the order of court. The treasurer says, in vindication of himself, that he paid the money by the direction of the register. We beg leave to submit to your determination, whether the treasurer, or the register, be answerable for the said sum.

The second article, is the interest of the money in the hands of Mr. Iggleston, of Deal; which sum of fifteen pounds has been improperly paid to the wardens, for their own use; and we are still of op-

nion, that the same ought to be refunded, and disposed of as you may think proper.

For the third and last article paid by the treasurer, for sundry expences for settling quarterly accounts at Deal, no vouchers are produced, nor were there any accounts kept. The plaintiffs require positive proof; and the treasurer persists in saying, he has not kept any account.

Your committee beg leave to observe, that in the third period, from the fifth of July, 1798, to the fifth of July, 1799, the clerk and treasurer have received £173 : 2 : 8, for which a state of the expenditure has been demanded; and the defendants say, they have exhibited a statement in the court of lodemanage.

To this the plaintiffs made the following objections.—We, the complaining pilots, plaintiffs in this business, beg leave to lay before you our remarks, on the second report made by your committee, for your consideration.

When your committee asked for the expenditure of the sum of £2059 : 16, received by the clerk and treasurer during the first period, they were told, that the only persons who could give any information, were dead. We beg leave to say, that Mr. Edmund Paine, the treasurer, was warden in the year 1781, and Mr. John Broad clerk in the year 1782; and undoubtedly, they ought both to give some information. Mr. Gammon was made warden in the year 1789, Mr. Benjamin Dixon in 1791, and Mr. Erridge in 1794; and each of them ought to give some account, during the time they have been in office.

We beg leave to remind you, that we have no objection to the credit of the sum of £15 : 1 : 0, stated to have been paid by the treasurer, during the second period, to sundry pilots for attending court; but we cannot refrain from pointing out the impropriety of charging the whole of it to that part of the society residing at Deal.

The order of the court of lodemanage, bearing date the fourth day of April, 1723, expressly says, that Dover and Deal shall pay equally

alike, all charges incurred by the fellowship. Dover therefore ought to pay £7 : 10 : 6 of the said sum; or if the court charges are paid as the master has acknowledged, then Margate and Ramsgate ought to pay one-sixth, and Dover and Deal the remainder, or equally between them. This, we hope, you will see, and rectify the error.

We further beg leave to remind you, of what we conceive to be a great omission, in your not taking notice of £14 : 18 : 4, for chaise hire; for it is an improper charge, made by the wardens at Deal, for obtaining pilots for his Majesty's service; as this sum was recorded in the minute book on the tenth day of June.

We further remark, that you have not taken any notice of the sum of £111 : 19 : 6, paid for the admission and the removal of pilots. If the deputy register received this sum, it is necessary that somebody should be accountable for it.

The committee met in July, and they informed the parties, that their report had been considered by the court of lodemanage; and it was thought, that the matters in dispute might be adjusted by arbitration, and they were directed to recommend that step.

Both parties required time; but they engaged to deliver their decisive answers on the fifteenth day of July. When they met, the plaintiffs asked what power the arbitrators were to be invested with, and whether the court of lodemanage would sanction and record the award.

The committee answered, that the arbitrators should have full power to accommodate all differences; but they were to keep the interest of the fellowship in view. The parties agreed to the arbitration, and the committee adjourned to September.

The court and the committee had a business before them, which would not bear a very strict investigation; and, by the steps which were taken, they were desirous of getting out of it, without too rigid an inquiry in the superior courts. If they could remove the plaintiffs objections to the expences in the second period, the treasurer would be

perfectly secure from any fear of the first, and there was not any thing formidable in the third. They were certain, that there could not be any discovery from the treasurer's accounts, without collateral help; for there were no entries, either of receipts or disbursements, to lead to any information. The method of keeping the treasurer's accounts, during the periods in dispute, was simply saying, that there was so much balance, on settling their quarterly business.

There could not be a more concise method, for there was nothing appeared but a single memorandum, as follows. At a meeting of the wardens, at the Three Kings, in Deal, settled the treasurer's accounts for the quarter; and, after all charges being paid, for attending courts, and other expences, there remains in the treasurer's hands a certain sum, belonging to the fellowship of pilots, at Deal.

To men who were determined to unravel this mysterious method of book-keeping, a few hints were sufficient; and, from the treasurer's and clerk's books of turns, and from the records of their court, they produced the following table, as a guide for their arbitrator.

THE TABLE.

From the treasurer's and the turn books, and from the information of persons living at the time.

Dates of the year.	Money paid to the clerk and treasurer.	Deal Expences according to the master's account.	Sums of Money neither expended nor added to the stock.	Treasurers and clerks names.
From 6th January, 1782, to 8th January, 1783.	54 17 6	39 6 6	15 11 0	Edmund Paine, warden.
From 8th January, 1783, to 8th January, 1784.	142 7 4	88 2 6	54 4 10	John Broad, clerk.
From 8th January, 1784, to 5th April, 1785.	162 9 4	72 0 0	90 9 4	Edmund Paine, and John Broad.
From 5th April, 1785, to 5th April, 1786.	109 15 2	69 0 0	40 15 2	Ditto ditto.
To 5th April, 1787.	184 9 6	79 0 0	105 9 6	Ditto ditto.
To 5th April, 1788.	128 3 8	86 7 0	41 16 8	Ditto ditto.
To 6th July, 1789.	156 15 6	104 15 10	51 19 8	Ditto ditto.
To 6th July, 1790.	138 12 6	88 0 0	50 12 6	Ditto, and Wm. Gammon.
To 5th July, 1791.	147 3 0	89 1 11	58 1 1	Ditto ditto.
To 5th July, 1792.	87 16 6	22 0 0	65 16 6	Ditto ditto.
To 5th July, 1793.	63 16 6	52 0 0	11 16 6	Benjamin Dixon, clerk.
Ditto ditto.	159 7 6	59 0 0	100 7 6	Ditto ditto.
To 5th July, 1794.	185 1 4	98 0 0	87 1 4	Ditto ditto.
To 5th July, 1795.	138 11 10	89 15 8	48 16 2	Ditto, and Edw. Erridge, clk.
To 5th July, 1796.	224 5 0	69 2 4	155 2 8	Ditto ditto.
To 5th July, 1797.	317 3 3	247 9 0	69 14 3	Ditto ditto.
To 5th July, 1798.	173 2 8	97 18 0	75 4 8	Ditto ditto.
Total.....	2573 18 1	1450 18 9	1122 19 4	

From the foregoing table it appears, in the third column, that there ought to have been in their fund £1122; but during this period, the stock had increased only £8 : 16 : 6; therefore the surplus must have remained with those who received it.

From the records of the court of lodemanage, it appeared, that the number of pilots admitted into the fellowship, and removed into the upper book, from the fourth day of April, 1782, to the twenty-eighth day of March, 1799, were as follows.

Admitted at Dover 26 pilots, at Deal 56, at Margate 1, at Ramsgate 2; total 65; which, at £8 : 8 : 8 for admission, amounts to.....	541 18 4
Removed in the upper book at Dover 15, at Deal 28; total 43; at £4 : 6 : 6 each, amounts to	185 19 .6
	<hr/> £727 12 10

For every admission the wardens received 42s. and 21s. for a removal; the sums received will therefore stand as follows.

Admissions 65, at 42s.	137 10 0
Removals, 43, at 21s.	45 3 0
	<hr/> £182 13 0

This sum, they said, ought to have been credited in the fellowship account.

As the settling this business by arbitration was recommended by the court, the plaintiffs required that they would enroll it; but as it did not wear a very favourable aspect, the court, upon recollection, did not seem inclined to make themselves a party with their wardens; for if they afterwards refused to enforce the award, they then would have been answerable to a superior court.

As this business had been delayed some time, and there appeared but little probability of its being brought forward, the plaintiffs addressed a letter to the master, informing him, that they were very

much surprised at the procrastination of the court; as the arbitrators, Mr. Thomas Chester on their part, and Mr. Purser Dower on the part of the wardens, were chosen, and only waited for the sanction of the court to proceed to business; and as they saw but little probability of there being any thing done, they requested him, as master, to call a court, to enter their arbitrators on the minutes, that they might proceed.

The master and two of the wardens at Dover, went to Deal, and informed the plaintiffs that they were advised to say, the court would not have any thing more to do with the business, than to recommend an arbitration; they added, that the orders for holding a court, they always understood, issued from the Warden of the Cinque Ports. They said, that there was no business which required a court, and that was the reason they did not hold one at the Michaelmas quarter.

The plaintiffs acquainted the master and wardens, that they had good reason to believe, that the award could not be enforced, unless sanctioned by the court; and they would apply themselves to the Warden of the Cinque Ports upon this subject.

The plaintiffs printed the reports of the committee, with some other papers, which they addressed with a letter to the Warden of the Cinque Ports, as follows:—

“ Honorable Sir,—We, the under-signed pilots, resident at Deal, having a matter now pending in the court of lodemanage, beg to lay before you the in closed printed book, which we hope will not be thought presumption in us.

“ After you have perused the second report of the committee, we have reason to conclude, that you will see great impropriety in the conduct of the treasurer, clerk, and wardens, at Deal; and we pray that you will be pleased to order the several persons to attend the next court of lodemanage, to answer such questions, upon oath, as shall be put to them.”

While the plaintiffs were pressing to obtain a court, they were advised by their solicitors, not to make any proposals for settling the wardens accounts by arbitration; but if they came from the court, it

would be prudent for them to accede to it. That the award could not be enforced by the means of the bonds alone; and that it was indispensably necessary, that the court of lode manage should propose the arbitration, and enter it on the minutes of their proceedings. They said, we are much surprised to find that such an order has not been made; for we certainly did at first understand the court had recommended the accounts to be submitted to an arbitration, upon both parties assenting thereto. If the court now refuses to make such an order, the business now assumes a very different appearance; and it becomes necessary to consider, how far it will be prudent to proceed, without the sanction of such an order.

We are inclined to recommend an arbitration, as it will ascertain the amount the wardens are indebted to the society; and we think the court of lodenianage will feel themselves bound to compel the wardens to pay the balance, as the arbitrators shall direct. If they persist in not interfering, we have no doubt but the court of chancery will order the substance of the award to be performed, and the proceedings in that court will be less tedious and expensive.

This advice induced them to write again to the master, and to the register of Dover Castle, requesting them to hold a court of lode manage, to enter an order for an arbitration on the minutes of the court; and further to require, that the floating balance in the hands of the treasurer, which amounted to a considerable sum, might be put out to interest, for the benefit of the society; and so continued every six months, if the treasurer had fifty pounds, or upwards, in his hands.

They were assured, that an application was made for holding a court, and the business would be again considered; and this induced them to wait the event of it.

The members of the court were unacquainted with the determination of the plaintiffs, and they very justly feared, that they might take some step which would lead them into greater difficulties; and,

in order to prevent their further proceeding, one of the committee sent the clerk to inform them, that they had met, and delivered their third report to the register of the Castle; that every thing was ready to proceed to arbitration, and they waited only for an order of court. He said, counsel's opinion had been taken, and that the court of lode-manage could not think of delegating its power to an inferior court. But though they could not make any order for the arbitrators to proceed, yet the court would sanction the award, and record it in their minutes. He pledged his honor, that the court would adopt the measure; but the plaintiffs wanted it under his own hand.

During this long procrastination, Mr. Paine, the treasurer, and the oldest warden, died; and when the arbitrators met to prepare the bonds, his executors refused to have any thing to do with the business; and the surviving wardens, sensible of what had been done while they had been in office, would not sign any bonds, to be answerable for any thing beyond their appointment to their wardenship.

This objection occasioned another delay; but as they and the court saw, that in avoiding Scylla, they should be shipwrecked on Charybdis, they at last signed bonds with a reluctant and a trembling hand.

When the arbitrators met for business, and had overlooked the proceedings of the committee, the arbitrator for the plaintiffs said, he should not be guided by any thing they had done; for he should take up the business from the beginning, and charge the wardens with having received a specific sum each year; and he should leave his opponent to prove how it had been expended; and where he could not produce proof, he should charge the wardens debtors so much to the fellowship.

As the wardens had not given their arbitrator any information how to proceed, and every quarter's accounts might involve him in some new difficulty, it was found advisable to consider of some plan to shorten the inquiry.

Yy

He was asked, if he had any plan to offer; and he answered, no; and he asked for one from his opponent. The complaining pilots, knowing their situation, and that some of the wardens had died since the year 1782, and that they might have several bills to file in chancery against their executors, at an heavy expence, to be paid out of their own pockets, they agreed, that their arbitrator should settle the difference upon moderate terms.

When the proposals, on the part of the plaintiffs, were made, the wardens arbitrator required two or three days to give in his answer; and when they met again, they agreed to sign the following award.

"To all to whom these presents shall come—We, Purser Dower, of the town and borough of Deal, in the county of Kent, gentleman, and Thomas Chester, of the town and port of Dover, in the said county of Kent, gentleman, send Greeting.—Whereas divers controversies and contentions have, for some time past, existed and been carried on, between Robert Campbell, Thomas Bayley, William Coller, Jeremiah Mowle, and Samuel Tavenor, all of Deal aforesaid, pilots, on behalf of themselves and others, pilots of the same place, against Edmund Paine (lately deceased), William Gammon, Benjamin Dixon, Edward Erridge, and Abraham Shrewsbury, all of Deal aforesaid, wardens of the fellowship of pilots there, concerning divers accounts and proceedings of them the said wardens; and whereas the said Robert Campbell, Thomas Bayley, William Coller, Jeremiah Mowle, and Samuel Tavenor, or some or one of them, did some time since, by their counsel, move the justices of his Majesty's court of King's Bench, Westminster, and obtained a rule for the examination of all books and papers belonging to the fellowship; whereupon divers other proceedings have been had, as well in the court of lodemanage at Dover as otherwise, before a committee for investigating the accounts and papers, in order, if possible, to settle and adjust the same, but without effect; all which circumstances and proceedings

have been attended with considerable expence ; and whereas it hath been at length agreed, between all the said parties, that all matters in difference should be settled by arbitration ; and they accordingly did, for that purpose, in and by their several arbitration bonds, duly executed, and bearing date respectively the first day of June last past, elect and choose us, the said Purser Dower and Thomas Chester, to be the arbitrators accordingly, so as we, the said Purser Dower and Thomas Chester, should make our award, in writing, under our hands and seals, on or before the first day of August then and now next ensuing, as in and by the said in part recited bonds, relation being thereunto had, more fully may appear :—

“ Now know ye, that we, the said Purser Dower and Thomas Chester, having, in pursuance of the said agreement and arbitration bonds, met together, and carefully and maturely inspected and investigated certain accounts belonging to the fellowship of the pilots at Deal, from the year one thousand seven hundred and eighty-two, to the year one thousand seven hundred and ninety-nine, and concerning which heretofore great difficulties and controversies have occurred ; and having in our endeavours to adjust and settle the same between the said wardens, and other pilots of the said fellowship, found divers errors and inaccuracies in the accounts delivered in ; and taking into our consideration, that the said pilots, Robert Campbell, William Coller, and Jeremiah Mowle, on behalf of themselves and others concerned with them, have been at considerable charge and expence in obtaining the said rule of the court of King’s Bench, for the examination of all books and papers belonging to the fellowship as aforesaid ; and having maturely and deliberately weighed and considered all the matters to us referred, do hereby award, order, arbitrate, and determine therein, in manner following (that is to say) ; We do award and adjudge, that the executors of the said Edmund Paine, deceased, and the said William Gammon, Benjamin Dixon, Edward Erridge, and Abraham Shrewsbury, do pay, or cause to be

paid, unto the said Robert Campbell, Thomas Bayley, William Coller, Jeremiah Mowle, and Samuel Tavernor, within the space of forty days next after the next meeting of the court of lodemanage at Dover, the sum of one hundred and eighty guineas; and we do further award, that the sum of one hundred and eighty guineas shall be paid by the persons, and in the proportions following (that is to say); —the executors of the said Edmund Paine, deceased (who have signified their consent and approbation to us so to do), the sum of fifty-five guineas;—the said William Gammon, the sum of fifty guineas;—the said Benjamin Dixon, the sum of fifty guineas;—the said Edward Erridge, the sum of fifteen guineas;—and the said Abraham Shrewsbury, the sum of ten guineas. And whereas the said Robert Campbell, and other pilots concerned with him, were, some time since, at considerable trouble and expence in commencing and prosecuting an action, which was tried and determined at Maidstone, in favor of the fellowship, against certain persons, for assuming to themselves the right of piloting ships and vessels to London, contrary to an act of parliament in that case made and provided; and which suit or action appearing to us to have been commenced and prosecuted for the benefit and advantage of the fellowship at large, in the protecting and defending their ancient rights and privileges; we do therefore, with a view completely to settle and adjust all existing differences between the said parties, adjudge it equitable, that the court of lodemanage at Dover will be pleased to order the expences attending such suit, amounting in the whole to the sum of one hundred and fifty-five pounds and seventeen shillings, to be forthwith paid out of the funds of the said fellowship, in the usual and customary manner as such expences are borne and paid by the respective fellowships of Dover, Deal, Ramsgate, and Margate. And we do further award, that all the costs and charges of this arbitration and award shall be paid and satisfied out of the stock or funds of the said fellowship or society, inasmuch as, by this present award, long standing controversies and con-

tentions relative to the accounts of the said fellowship, are now settled; and we, in consequence thereof, sincerely desire and hope, that the result of this our award will effectually conciliate all parties, and consign past differences and dissensions to oblivion. And this writing we do sign and seal, publish and declare, as our award in the premises. In witness whereof, we have hereunto set our hands and seals, this eighth day of July, in the forty-first year of the reign of our Sovereign Lord George the Third, by the grace of God, of the united kingdom of Great Britain and Ireland King, defender of the faith, and in the year of our Lord one thousand eight hundred and one.

"*Purser Dower,* L. S.

"*Thomas Chester.* L. S.

" Signed, sealed, published, and declared, by the above
named Purser Dower, and Thomas Chester, as their
Award in the said matters (being first duly stamped),
in the presence of
" *John Sampson, attorney at law, Deal.*"

After the differences between the pilots and the wardens were settled at Deal, they found it expedient to adopt a new method of bookkeeping; for experience had taught them, that so much due to the society upon the balance, would not answer their purpose any longer. The good effect of this new plan soon appeared in the fund of the pilots, both at Deal and at Dover. A new act was procured in 1801, for the better regulating the affairs of the pilots; and the old acts were repealed, and are now useless.

The merchants were, about this time, very much dissatisfied, and complained of their ships being detained, by lying to for pilots, which rendered them liable to be captured by the French privateers, and they were charged with heavy expences in procuring pilots. To prevent these evils, they procured an act of parliament, and increased the number of pilots to one hundred and forty; sixty-four of which were

to reside at Dover, and as many at Deal; not less than eighteen of them were continually to ply at sea at all seasonable times.

The old system of punishing by fine, suspension, and dismission, for not paying the Trinity dues within the limited time, for not attending at special courts, for taking away turns, and for disobedience of orders, was continued in this act. It also contained some heavy penalties, and severe punishments.

This act expired in 1812, and was followed by another, which has produced a fresh code of bye laws, which have been printed and stuck up at the Custom-house, in London, for the inspection of the merchants; and we are informed, that these bye laws, rules, and orders, are to undergo a revision, and are subject to alteration.

If this should be the case, it would only tend to mislead the reader to make any comment on them; but several persons are desirous of seeing the first paragraph of the bye laws, under the act of the fifty-second of George the Third, revised and improved with the other rules and orders.

It says, "It is ordered, that all former bye laws, orders, and regulations, for the government of the said pilots, shall be, and they are hereby allowed, declared, and directed to remain, and continue in full force, and to be good and valid bye laws, regulations, and orders; save and except in such, and so many particulars, matters, and respects, as the same, or any of them, or any clause or clauses, part or parts of the same, or any of them, are so altered, varied, or annulled, by the bye laws, orders, and regulations, ordered at this present court.

" All fines and penalties to be levied in pursuance of this act, or under any bye laws, made in pursuance thereof, shall go one third to the person who informs or sues for the same, and two thirds to the fellowship."

APPENDIX.

Acts and ordinances, first recorded the twenty-sixth day of February, in the eighteenth year of the reign of King Henry the Eighth, by Sir Edward Guilford, Knight, Lieutenant Governor of Dover Castle, for keeping good order among the lodesmen at Dover, and other places within the jurisdiction of the Cinque Ports, and other rules and laws ordered, from time to time, by his successors, to be observed by all lodesmen admitted into this society.

Class i, the eighteenth of Henry the Eighth.

1. There shall be elected and chosen, from time to time, four substantial persons, for wardens.
2. The youngest lodesmen, according to their turns, shall be appointed to ships of small tonnage, by the admiral and wardens, or two of them at least.
3. If a lodesman was absent on any lawful business, when his turn happened, the wardens might send another, who was to allow the absent lodesman a quarter part of the profit.
4. If a ship of large tonnage appeared, and it was a young lodesman's turn, then one of the old lodesmen was to go with him, and be allowed half the wages.
5. In the absence of the old lodesmen, a young lodesman might take charge of a large ship; but he was either to take another lodesman, or a mariner properly qualified, to assist him, and allow him half the profit.
6. A young lodesman was not to launch a boat, to go off to a ship, on the business of lodemanage, without the permission of two wardens.
7. For resisting or disobeying the aforesaid orders; such offender, for every offence, was to forfeit four-pence; one moiety for repairing the castle, and the other for repairing a mill in the town. If any one refused the payment, the penalty might be levied on their lands, tenements, goods, and chattels.

Class ii.

1. It was ordered, that if any Dutch or foreign vessel came within the liberties of the Cinque Ports, to wait for ships to conduct them to their ports on the continent; either a lodesman, or an officer, was to send them notice to quit their liberties, as soon as wind and weather would permit, without taking charge of any ship, under the penalty of paying sixteen shillings and eight-pence; one moiety towards repairing the Castle, and the other, the *Old Wike*, or a work at the entrance into the harbour. This order was not to affect pilots of outward bound ships, nor ships belonging to the King of Portugal, nor the wool fleet from Spain.

2. If a lodesman, when at home, missed his turn, by a ship's passing in the night, or by any other means; the person who had the charge of her, was to anchor in the Gore; and he was either to leave the ship there safe at anchor, or send for the lodesman; and he was to be paid for his trouble according to the tonnage. From sixty to one hundred tons, five shillings; from one hundred to two hundred tons, six shillings and eight-pence. If there was no lodesman in the way, the mariner was to leave the ship in the Gore, and be paid for his trouble.

3. A jurat was, from time to time, to fill the vacant place of warden.

Rules and orders, passed between the years 1564 and 1590.

Class iii.

1. For taking away a turn from an upper book lodesman, at Deal, the aggressor was to forfeit four pounds; one moiety to him who lost his turn, and the other to the court. At Dover, the fine was three pounds six shillings and eight-pence; but the aggressor was to return the whole sum he received for lodemanage.

2. For taking away a turn from a lower book lodesman, at Deal, the fine was four marks.

3. If a ship fired a gun, or hoisted a signal, for a pilot, when he passed Dover, the lodesman next in turn might follow her to the Downs; and if any person dwelling within the jurisdiction of the Cinque Ports, offered to interrupt him in his duty, he was to forfeit four pounds one shilling and eight-pence.

4. A clerk was appointed to inform every lodesman of his turn, and for which he was to pay four-pence; and if he refused to pay, he was fined eight-pence.

5. If an absent upper book lodesman returned within twenty-four hours after his turn happened, he might follow, and take charge of the ship, if in the Downs, by paying to the person who had taken charge of her, five shillings; or ten shillings, if at Margate, or in the Gore. A lower book lodesman might do the same, by paying one half of the above sum.

6. If the lodesman who followed the ship had only a rear turn, and he who had charge of the ship would not quit it, he was, in that case, to forfeit all the advantage; one third to the turn, one third to him who had the rear turn, and one third to the society.

7. If a lodesman took away the turn of another, he was to pay the fine (see fig. 1, in this class), and be imprisoned in Dover Castle, during the pleasure of the president.

8. It was ordered, that the lodesmen should take a boat, and once in every year examine the Channel, from the South Foreland, to the west end of the Nore, and produce their survey, with the alterations, to the court. Every upper book lodesman was taxed two shillings, and the lower book lodesman one shilling, to pay the expence. The wardens were to pass their accounts every year.

9. If a lodesman, when at home, refused a turn, without any lawful occasion, he was to forfeit, for the first offence, ten-pence; for the second, twenty-pence; and for the third, be dismissed the society.

10. The lodesman, mentioned fig. 1, was ordered to pay two thirds to him who lost the turn, and one third to the box.

Rules and orders, between the years 1595 and 1602.

Class iv.

1. Mr. Bennett was appointed master; but as he was absent in the Prince's service, the mayor was elected for his deputy.

2. Every lodesman, within twenty-four hours after his return, was to pay to the wardens the third penny, or forfeit ten shillings to the poor's box.

3. For taking away a turn, to pay twenty shillings to the same box.

4. For exchanging, or putting off a turn, the same sum to the box.

Rules and orders, between the years 1602 and 1606.

Class v.

1. To the order class iii, fig. 10, it was added, that the aggressor, for taking away a turn, should pay one third, and ten shillings to the box.

2. It was ordered, that a lodesman should not continue in the society, at Deal, unless he had a house in the town.

3. If a lodesman agreed to conduct a ship to any port on the continent, and sailed with her to London, he was to forfeit the whole lodemanage, according to ancient usage. (See class iii, fig. 10.)

4. If a lodesman, while in the King's service, offers to take charge of a merchant ship, off Dover, to conduct her to London, and violates any of the orders of court, he shall be deprived of his turn, until he has made satisfaction to the master and wardens.

Orders passed in the year 1606.

Class vi.

1. It was ordered by the master and wardens, and sanctioned by Sir Thomas Fane, knight, president of the court of lodemanage, that, as far as his power would extend, from the above date, and for ever, every person who was not of the fellowship of lodemanage, who should sail in any ship, bark, carrier, hoy, or fishing boat, belonging to the town of Dover, or be employed by any mariner, or inhabitant, should pay for every voyage as follows:—For sailing to Spain, each voyage, six-pence; to Bourdeaux, four-pence; to the East Country, four-pence; to France, Flanders, the Low Country, or on a coasting cruise, two-pence; for each man, every fishing season, four-pence.

2. It was ordered, that every person, who had goods in the town, and was not an inhabitant, should pay according to the former rate. The rate is not now known. To secure the payment of these impositions, it was ordered, that every master of a vessel, sailing to the above mentioned ports, was to collect the money of the men, and pay it to an officer, appointed by the court, under the penalty of forfeiting himself, for every voyage to Spain, ten shillings; to Bourdeaux, Flushing, and the East Country, six shillings and eight-pence; to France, and other places, as mentioned in fig. 1. In case of non payment, the fines were to be levied, either on the body, goods, chattels, lands, and tenements of the offender.

3. It was ordered by the court, and confirmed by Sir Thomas Fane, that every boat assisting a ship sailing either in or out of the harbour, should pay half a share to the box of the fellowship; and the principal person in the boat was to be answerable for the tax; and if not paid, to be levied as in the preceding order.

Laws passed between 1618 and 1620.

Class vii.

1. An order, made the nineteenth day of September, 1619, by the master, wardens, and commissioners of the court of lodemanage, for raising a contribution on every vessel crossing the sea, in proportion to her voyage. Every passage bark crossing the sea, between Flushing and the Seine head, to pay each voyage, twelve-pence; every vessel, under 40 tons, sailing to London, Newcastle, or the East Country, eight-pence; every vessel, above 40 tons, sailing to the same ports, twelve-pence; every vessel sailing to Nantz, Rochelle, or Bourdeaux, eighteen-pence; if above 50 tons, twenty-four-pence; every vessel sailing to Spain, under 60 tons, thirty-pence; above 60 tons, thirty-six-pence; every ship or bark, sailing to Holland or the East Country, twelve-pence; every fishing boat, sailing to the North Sea for herrings or shell fish, ten-pence.

2. For heating pitch on board a vessel, ten shillings.

3. Every boat's company, for assisting a ship into or out of the harbour, was to pay one share.

4. Every merchant, who did not reside within the liberties of the Cinque Ports, was to pay them at a certain rate for shipping of goods.

5. If a single person brought in, or carried a ship out of the harbour, he was to pay a sixteenth part of his earnings.

6. It was also decreed, that twenty-three persons should be appointed to conduct ships in and out of the harbour; and that the principal man in the boat should collect half a share, and bring it to the officer they appointed to receive it, or forfeit half a share. If the boat first in motion was interrupted by another boat, the offending parties were to forfeit five shillings. The boat which brought in the ship, was to have the sole right of helping her out.

7. If any master of a vessel enroled, or hereafter to be enroled, shall presume to intrude, or intermeddle, with another's turn, bound to the continent, he shall forfeit, if to Calais or Bolougne, forty shillings; if to Dieppe, four marks; and for refusing to pay the fine, imprisonment during the pleasure of the president.

8. All ambassadors agents, and special messengers on public business, might make choice of any vessel; and the master might sail with them, without waiting for his turn.

9. If either the master or the wardens of the fellowship shall refuse to go in their turns, they shall be liable to the same penalties.

10. Several masters of ships petitioned, that they might choose their pilot; and it was settled, that large ships, from the Straights, Spain, and Portugal, above 250 tons, might have the privilege, provided the pilots paid one third of the lodemanage to him whose turn it was.

Orders passed in the year 1624.

Class viii.

1. After the business of enrolment was settled, it was ordered, that if other masters desired to be enroled for the transport service, they shall be admitted, with the approbation of the commissioners; but not without it.

2. Every person, for taking a turn from one who was ready and willing to go, was to forfeit forty shillings to Calais, and four marks to Dieppe, and make such further recompense, as the court, from time to time, should think proper. If the fine was not immediately paid, and the recompense made, the offender was to be committed to prison, during the pleasure of the president.

3. The clerk of the fellowship to keep a roll book of the masters of vessels for the transportation service; and to leave notice with every person next in turn for sailing; for which he was to receive one shilling, and six-pence for the fund of the society.

4. It was ordered, that from Easter to Michaelmas, each master should sail either to Calais or Bolougne, for £2 : 10; but if they entered the harbour, £3 : 10; if to Dieppe, £5. During the winter half year, they were to have £3, for sailing either to Calais or Bolougne road; and if they entered the harbour, £4; and to Dieppe, £6.

5. If a master of a vessel refused to sail in his turn, the clerk was to go to the next in rotation; and he who refused, was to forfeit to the fellowship according to the voyage; forty shillings to Calais or Bolougne, and five marks to Dieppe; and imprisonment, as in fig. 2, class viii.

6. If a vessel was detained by a storm, or any unavoidable accident which occasioned the master to leave his turn, he might then take a freight, if it offered while he was upon the spot, without being liable to the fine.

7. All ambassadors, special messengers, agents, and the post, might take any vessel, without the master being liable to the fine.

8. For preventing a Frenchman taking his turn according to custom, the same forfeit as in fig. 2, class viii.

Attachments were issued, for committing twenty-seven masters of vessels, for not paying the fine, and they were dismissed from the protection of the court.

Orders passed in the year 1625.

Class ix.

1. It was ordered, that the court should be regularly held on the twenty-ninth day of September, on the twenty-ninth day of December, on the twenty-fifth day of March, and on the fifth day of July.

2. Every member of the society absenting himself, without any lawful or unavoidable necessity, should be fined at the discretion of the court.

3. Ordered, that every foreign vessel entering the harbour, should pay one shilling to the fund, to be levied by distress, if necessary. If any vessel, after notice, fastened near the harbour, for the space of one tide, the master shall pay six shillings and eight-pence every tide he remains there, unless he is taking in, or delivering a cargo.

4. No foreign vessel, excepting those from Calais, Bolougne, and Dieppe, shall take in any freight in the port of Dover, without paying five shillings to the fund of the society, to be recovered as in fig. 2, class viii.

5. For heating pitch or tar on board a vessel, and endangering the ship, to pay ten shillings to the fund, as in a preceding article.

6. Ordered an attachment against Andrew Read, the book-keeper at Deal, to commit him to prison, until he rendered an account to the court; as he had often been called upon to do it, and as often refused.

7. The court ordered, that the fees for the admission and removal of the lodesmen, should be entered in their book, and they were as follow. The admittance of a lower book lodesman, to pay to the box four shillings and two-pence; to the register recording his name, one shilling and eight-pence; to the clerk, four-pence. For removing to the upper book, to the box four shillings and eight-pence; to the register three shillings and three-pence; to the clerk four-pence.

Orders passed between 1628 and 1634.

Class x.

1. Ordered, that every foreign vessel, taking in a freight in the haven of Sandwich, should pay five shillings, according to an ancient order made for Dover. Class ix, fig. 4.

2. By an order, passed in the year 1632, any master of a vessel, sailing in his turn to Calais, Bolougne, or Dieppe, without the knowledge of the master of the fellowship, was to pay twenty shillings to the society.

3. By an order, in the year 1633, an under book lodesman, for collusively depriving an upper book man of his turn, or taking charge of a ship above 70 tons burden, was to pay a fine, equal to the lodemanage of the ship, to the fellowship, and the same to him who was deprived of his turn.

Orders passed in the year 1634.

Class xi.

1. It was this year ordered, that the masters of vessels sailing into Calais, or Bolougne road, with men or horses, from Easter to Michaelmas, should have £3. and into the harbour £4 : 10. Between Michaelmas and Easter, into the road, £4. and into the harbour, £4 : 17. It was also ordered, that the oldest lodesman on the lower book, should succeed to the upper book.

2. By refusing to sail for the foregoing sums, and waiting one tide, they were to lose their turn, and forfeit forty shillings, according to ancient custom.

3. It was ordered, that Thomas Young should be appointed clerk, to acquaint the masters of their turns, and the next in succession.

5. Ordered, that at Sandwich, only members of the society should conduct ships up the haven, and they were to have two shillings a foot for the lodemanage.

6. As there were but few lodesmen on the upper book at Deal, and a great many on the lower book, and there was a great increase of ships of burden, it was ordered, that at the next court, if nothing appeared to the contrary, the lower book lodesmen might take charge of ships of 100 tons burden.

7. It was ordered, that no person should take as a servant any one bound to a lodesman for the sea service; unless it was for the King's service, under a penalty of five pounds.

Orders passed between 1638 and 1696.

Class xii.

1. It was ordered, that every person, who made use of the new capstan, to assist in getting a ship into the harbour, should allow one share to the society.

2. For the expeditious dispatch of the business of lodemanage, it was ordered, that the members of the court should meet, between eleven and twelve of the clock in the morning, at the Bench, in Dover; and if the master did not appear in time, he was to forfeit to the fund two shillings, and each of the wardens one shilling, for not attending in time.

3. Every lodesman going on board a ship out of his turn, unless sent for by the captain, or went as a choice turn, was to forfeit his turn for the round.

4. In the year 1641, it was ordered, that the carrying an upper book turn, at Deal, should be £4, and a lower book £3; and the third should be paid to the person who carried the turn.

5. It was ordered, in the year 1645, that if any person, not of the fellowship, should conduct a ship, either up or down the haven, at Sandwich, he should pay a fine of twenty shillings.

6. In 1681 it was ordered, that the dues of every turn should be paid to the clerks at Dover, Deal, and Thanet, within twenty-four hours after the return of the lodesman; and in case of refusal, to pay double.

7. In the year 1682, it was settled by the court, that Dover should pay one half, Deal three parts of one half, and Thanet the remainder, of the expences of holding the court.

8. It was ordered, in the year 1694, that if a lodesman lent his branch to another person, he was to be dismissed the society.

9. Ordered, that at the death of a lodesman, one third of his dead turn should be detained, until the branch was delivered to the register.

10. For abusing the master and the wardens, or either of the officers, for the first offence they were to lose their turn, and for the second be suspended.

Orders, from 1696 to 1699.

Class xiii.

1. For taking charge of a ship, during his suspension, the lodesman was to lose his branch, and be disqualified from serving again.

2. It was ordered, that no vacancy should be filled up, except on a court day.

3. Every pilot, in the King's service, was to have his turn stopped; and he was to have the first turn which offered, when he came home.

4. Every pilot was to pay a fine of twenty shillings, for conducting a foreign ship of war over the Flatts, or round the Long Sands Head.

5. Every superannuated pilot, who had not a sufficient maintenance, was to receive (if of the upper book) forty shillings, from the person who carried his turn; and a lower book lodesman, thirty shillings. For taking charge of a ship after they were superannuated, they were to lose the benefit given them in the preceding article.

6. A person was not to be admitted into the society, unless he was acquainted with the Flatts, the Long Sands Head, and the coast of France, Flanders, and Holland.

7. It was ordered, that every lodesman, when summoned to the court, was to appear, and answer to his name, and remain there until he was discharged, under the penalty of paying two shillings and six-pence, and being punished at the discretion of the court.

8. It was ordered, that a superannuated pilot, at Dover, should receive only eighteen shillings for a lower book, and twenty-four shillings for an upper book turn; and to make up the sum mentioned, see fig. 5, in this class, they were to have one shilling from an upper book turn, and six-pence from a lower book turn.

9. On the arrival of every ship, a boat was to take off an upper and a lower book lodesman; and one of them was to take charge of her, according to her tonnage; and if there was any dispute between them, the offending pilot was to pay a fine of twenty shillings.

Orders in the year 1699.

Class xiv.

1. Ordered, that the master should not continue in office more than one year.
2. Ordered, that he give up his accounts to the governor of Dover Castle, or his deputy, within one month after he quits his office.
3. The clerks for Dover and Deal were to deliver in their monthly accounts, as in the last order.

4. The expences incurred by the officers, at their meetings to settle differences, were to be paid by the person who was adjudged to be the offender; and if he refused, and a complaint was made to the president, an attachment was to be issued to apprehend him.

5. Ordered, three months suspension for taking away a turn; and for taking charge of a ship, during suspension, dismission from the fellowship.

6. If a lodesman was a master of a vessel, he was not to have any benefit from his turn, unless he went with it himself; and it was ordered, that in future no master of a vessel should be admitted into the society.

7. If a lodesman, after his admission, undertook the command of a vessel, he was to be dismissed from the fellowship.

8. If a lodesman neglected paying his dues to the clerk, twenty-four hours after his return, he was to be dealt with, as in fig. 4, in this class.

9. Every pilot, for going on board a ship out of his turn, shall lose it for that round, except it be a special turn.

10. Every lodesman, for abusing either the master or the wardens, while they were discharging the duties of their office, was, for the first offence, to lose his turn; and for the second, to suffer a whole year's imprisonment.

Orders, from 1701 to 1713.

Class xv.

1. The court determined, that the order, fig. 7, in the preceding class, should not include commanders of King's ships, nor masters of vessels in his Majesty's service.

2. It was suggested to the court, that the Lord Warden might suffer considerably, if a pilot was permitted to go forward with a ship after she had struck the ground, before the sergeant of the admiralty could receive a compensation for the anchor and cable. It was therefore ordered by the court, that if the pilot proceeded after the sergeant had demanded satisfaction, and before he received it, he should either be suspended, or dismissed, at the will of the president.

3. If there was any dispute between an upper and a lower book lodesman, about the tonnage of a ship, the upper book pilot was to take charge of her; but if it afterwards appeared, that the ship was under 120 tons, he was to restore the whole of the lodemanage to him who ought to have taken the turn.

4. The same order was made for a lower book lodesman taking charge of a ship above 120 tons. Upon complaint, the master was to get information from the custom-house; and upon producing proof to the president, that the pilot refused to comply, he was to forfeit twenty shillings.

5. As several pilots had refused to serve in King's ships, and had brought disgrace upon their profession; it was ordered, that upon complaint of neglect, or refusal, to the president, they should be suspended, or punished, as the case might require.

6. It was ordered, in the year 1713, that every lodesman, within three months after his admission, should receive the sacrament, and produce his certificate of it, or be suspended.

Orders passed in 1717.

Class xvi.

1. It was ordered, that every ship drawing eleven feet three inches of water, and under, should belong to the lower book lodesmen; and all above, to

the upper book lodesmen; provided it should be counsellor Turner's opinion, that the society might remain divided into two classes, as they were before the obtaining their statute.

2. The court had reason to suspect, that boatmen recommended pilots, and that lodesmen went on board ships, and agreed with the master, to make choice of them; and that indirect methods had been used to obtain choice turns. It was therefore ordered, that if a master of a ship was desirous of having a choice pilot, he was to declare his intention of taking a person whose ability he was acquainted with; and, on his return, he was either to make the usual signal, or send a letter, or messenger, to the person; and if these conditions were not complied with, it was not to be a choice turn.

3. The same order, as in class xv, fig. 3, was to continue, in case of dispute about the depth of water drawn by a ship.

4. Every choice pilot was to pay forty-shillings to the pilot whose turn he carried, within twenty-four hours after his return home, or pay double; and if he refused, he was to lose his next turn. For a second offence, he was to be suspended, during the pleasure of the court.

5. If the master and wardens knew a pilot capable of taking charge of a King's ship, and he refused to do it, he was to be either suspended, or dismissed, at the pleasure of the president.

6. A pilot was not to take charge of a King's ship above a sixth rate, until he had been three years in the fellowship, under the penalty of suspension.

7. If there did not appear any just cause to the contrary, either the president, or his deputy, might suspend, for taking away a turn.

8. If a pilot, returning from Holland, Hamburg, or any port on the continent, should take charge of a ship, bound for the Thames or the Medway, it was ordered, that he shall pay the dues of the turn to the box, at the place where he belongs.

9. A pilot at Deal, for carrying a ship through the Downs to the North Foreland, shall pay five shillings to him whose turn it is, and six-pence to the clerk.

10. If any pilot presumed to abuse his superiors, or the master, by using disrespectful words or actions; he was, for the first offence, proved before the president, or his deputy, to be suspended during pleasure; and, for the second, to be dismissed the society.

11. Every pilot, upon his suspension, was to deliver up his branch to the clerk, that it might be sent to the register's office ; and when his suspension was taken off, he was to receive his branch again. If he refused to deliver up his branch, his suspension was to be continued until he complied, and until he had made proper submission to the president.

12. It was ordered, that it should be expulsion for taking charge of a ship during suspension, upon proof being produced to the president.

13. All deprived pilots, and other mariners who had never been of the society, were to be prosecuted for the penalties in the admiralty court of the Cinque Ports.

14. As a great expence had been incurred in procuring an act of parliament, it was ordered, that every Deal pilot, at his admission, should pay three guineas and a half, and every Dover pilot two guineas, either to the clerk or treasurer, towards paying the expences of obtaining the statute.

15. The 14th order was altered in a few months ; and every person, on account of the growing expences, was to pay three guineas at his admission.

16. Every pilot admitted into the fellowship, in the place of a superannuated pilot, was ordered to pay to him, each turn, if of Dover, twenty shillings ; if of Deal or Thanet, thirty shillings.

17. Ordered, that every pilot should pay an additional shilling for Trinity dues.

Orders passed in the year 1718.

Class xvii.

1. If a lower book pilot was put on board an upper book ship, he was to lay to, either off Deal or Thanet, or the first place he came to, and make a signal for an upper book pilot, who was to allow him ten shillings to the Downs, and twenty shillings to the Foreland ; and if he proceeded up the River, he was to forfeit forty shillings to him who ought to have had the turn ; and for the second offence, five pounds.

2. An upper book pilot was not to take charge of a ship, under 110 tons.

3. According to the ancient rules of the society, the lodesmen of Deal were not to ply further to the westward, to take charge of ships, than to bring the two lights of the South Foreland into one ; neither were the pilots of Dover to take charge of any ship, more than three miles to the westward, under the pain of suspension.

4. If a pilot was absent, he was to lose his turn until the next round ; unless sick, or in the King's service, or on some lawful business, sufficient to satisfy the president. The next pilot in succession was to take the turn, by the direction of the clerk and the wardens ; and if an upper book lodesman, he was to pay to the box twenty-four shillings ; if of the lower book, eighteen shillings, within twenty-four hours after his return, for the use of the superannuated pilots.

5. It was ordered, that the behaviour of all pilots, who had been admitted on conditional branches, should be inquired into, and dealt with according to the report.

6. It was ordered, in the year 1721, in consequence of the power given to the commissioners in the statute of 18th George 2d, c. 21, that the clerk should deliver copies of the rules and orders then made to every pilot, in their respective districts, that they might know the risk of offending, as it would fall so heavily upon them.

7. If a pilot was absent when his turn happened, he was to lose it, unless he was on the King's service, as in the preceding orders, and the next lodesman was to have it, by the direction of the clerk and the wardens ; and they were to pay as in fig. 4, of this class.

8. It was ordered, that the fines in the fore mentioned class should be confirmed, and suspension for the first offence, instead of the second.

9. The twenty shillings which had been paid at Dover, and the thirty shillings at Deal, on the admission of pilots, for the benefit of superannuated members, was ordered to be paid within twenty-four hours after it was demanded ; or the pilots refusing to pay, were to be suspended until they did pay.

10. It was ordered, that in future no drunken or disorderly pilot should be removed into the upper book, nor be permitted to continue in the society, after admonition, unless he reforms to the satisfaction of the court.

Continuation of orders passed in the same year.

Class xviii.

1. For the better preventing the evils mentioned in the statute of the 8th George 2d, c. 21, it was ordered, that six pilots from Dover, nine from Deal, and four from Thanet, shall be taken out of each respective book equally (excepting at Deal, where the odd man shall be from the lower book) and they shall ply constantly at sea, at all such seasonable times, as the wardens and clerks of each place shall direct, to be ready to conduct ships to the Thames, and the

Medway, in their turns. The pilots at Dover were not to ply further to the westward than Red Fall; the pilots at Deal no further, than to bring the two lights into one; and the pilots in Thanet, from the Ramsgate and the Margate bays, to the North Foreland. When the six Dover pilots were shipped, there were no more to be sent off, until the nine Deal pilots were shipped; but the pilots on shore might take charge of ships in their turns, if they had missed the boats, and made signals for pilots. For breaking this order, by going beyond the limits, for the first offence suspension, and for the second dismission.

2. Ordered, that every lower book pilot, for taking away wilfully an upper book turn, shall be excluded from the upper book, without a special order of court; and every upper and lower book lodesman, for breaking his turn, shall be suspended, until he has made full satisfaction.

3. The being absent from a general court, suspension, until full satisfaction was made.

4. It was ordered, that two wardens of each place should take two or more pilots from each book, to survey the channel, shoals, and sand banks, and to observe whether they shifted or increased; and to keep up proper marks, where necessary, for the more safe piloting of ships. The expences were to be annually paid out of the boxes at each place.

5. As several of the pilots had given themselves liberty to talk in an insolent and scandalous manner of the Lord Warden, his Lieutenant, and Deputy; it was ordered, that if they presumed to act, and speak in such a manner again, they should, for the first offence, be suspended, during the pleasure of their president; and for the second, be dismissed the society.

6. If the suspended pilot did not deliver up his branch, his suspension was to be continued, until he had made full satisfaction to the president.

7. In consequence of a petition from the lower book pilots, it was ordered, that they should have charge of all ships, which did not draw more than eleven feet three inches of water.

Orders passed between 1722 and 1725.

Class xix.

1. Every upper book pilot was ordered to pay £3, and every lower book pilot £2 : 10, to the clerk of the division to which he belonged, within twenty-four hours after it was demanded, or stand suspended. Out of which sum, the

person whose turn was carried, was to have, if an upper book pilot, £2 : 10; if a lower book, £2; and the remainder was to go to the box for Trinity dues, and clerks fees, notwithstanding any former order of court.

2. In order to restore peace, if possible, it was settled, that the pilots at Dover and Deal should be equal, or fifty at each place; twenty-five in each book; and they should observe the same rules, orders, and limits, under the same penalties, as in the preceding laws.

3. It was ordered, in the year 1723, that lower book lodesmen should not take charge of ships drawing more than eleven feet water; and all charges, in future, were to be paid equally between the fellowship at Dover and Deal.

4. It was ordered, that the two pilots who were in the rear of the lower book, should pay each turn, one twenty shillings, and the other thirty shillings; and the two last in succession should bear the burden.

5. As the disputes continued between the pilots of Dover and Deal, relative to their going out of their limits; it was ordered, in the year 1724, that for the first offence they should be suspended; and for the second, dismissed the society.

6. As frequent disputes happened between the lodesmen, concerning the depth of water drawn by a ship; and a person was sent off, at the expence of ten shillings, to settle the dispute; it was ordered, whoever was in fault should pay the sum of ten shillings to the box, to discharge the expence, within three days after it was demanded, or stand suspended; and he should deliver up his branch to the register.

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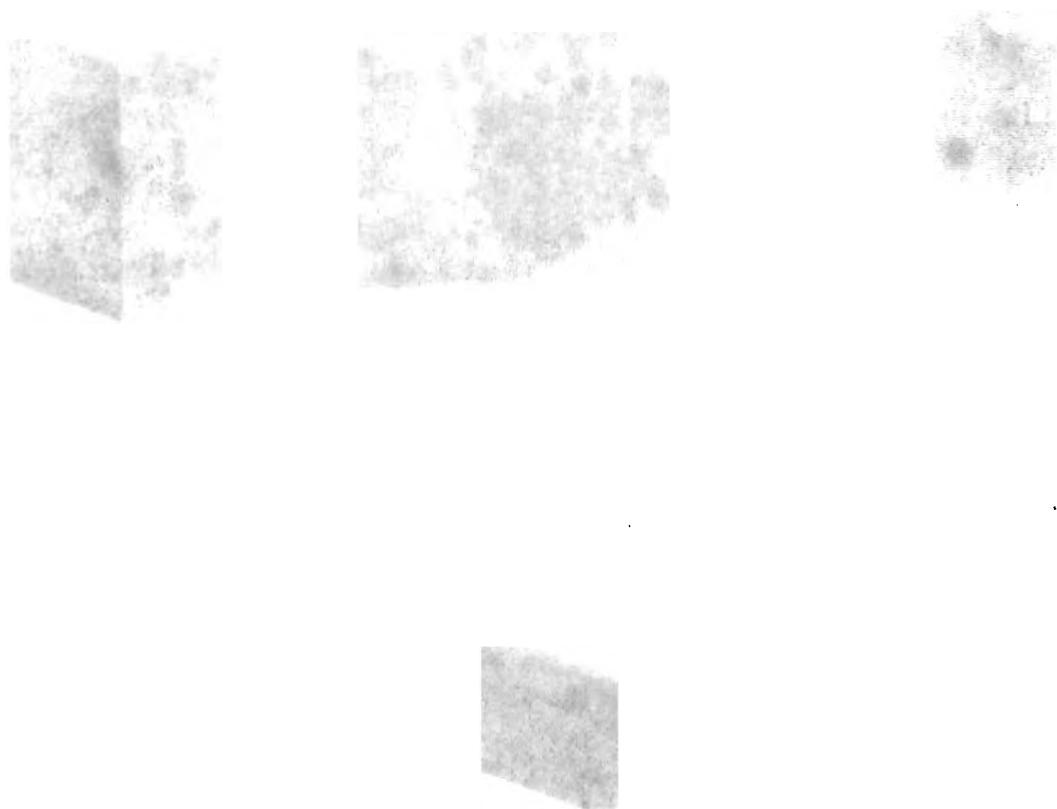


Fig. 1.



Fig. 2.

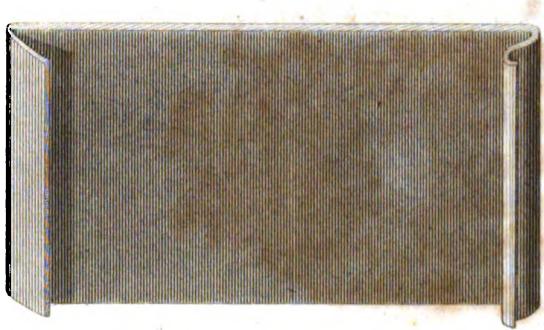


Fig. 3.



Fig. 4.

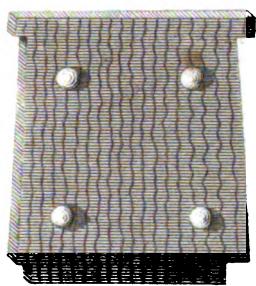


Fig. 5.

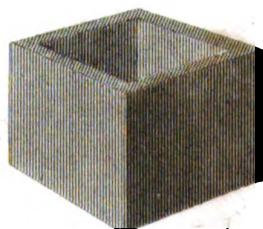


Fig. 6.



